

The Gazette



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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III—SECTION 1

Notifications issued by the High Courts, the Comptroller and Auditor General, the Union Public Service Commission, the Indian Government Railways, and by Attached and Subordinate Offices of the Government of India.

MINISTRY OF HOME AFFAIRS Intelligence Bureau

NOTIFICATIONS

New Delhi-2, the 9th November 1951

No. 7/East(G)/51(89).—Mr. K. Nagabushanam, of the Madras Police (at present on deputation to the Hyderabad Police) has been appointed as officiating Deputy Central Intelligence Officer, Warangal North (under the Central Intelligence Officer, Hyderabad) with effect from the 10th October, 1951.

The 10th November 1951

No. 44/East/48(3).—Mr. D. C. Mitra, Deputy Central Intelligence Officer, Subsidiary Intelligence Bureau, Shillong, is granted four months' leave on average pay with effect from 3rd October 1951.

He is likely to return to the same post on the expiry of his leave.

T. R. SUBHEDAR.
for Director.

DEPARTMENT OF EXPLOSIVES

NOTIFICATIONS

New Delhi, the 16th November 1951

No. G-15(16)-1.—Shri S. N. Lahiri, M.Sc., Officiating Inspector of Explosives is confirmed in the post of Inspector of Explosives with effect from 11th January 1951.

No. G-15(32)-1.—Shri K. Sankaran, M.Sc., provisionally substantive Assistant Inspector of Explosives is confirmed in the post of Assistant Inspector of Explosives with effect from 28th October 1948.

No. G-15(34)-1.—Shri V. Krishnamurthy, M.A., A.R.I.C., Officiating Assistant Inspector of Explosives is appointed provisionally substantive in the post of Assistant Inspector of Explosives with effect from 11th January, 1951.

M. K. MAITRA,
Chief Inspector of Explosives in India.

INDIAN AUDIT AND ACCOUNTS DEPARTMENT

NOTIFICATIONS

New Delhi, the 12th November 1951

No. 4646-GE/S-27/PF.—Sri C. S. Swaminathan, an Indian Audit and Accounts Service Probationer, has been posted as an Assistant, Accountant General (on probation) in the office of the Accountant General, Madras with effect from the 19th October, 1951.

No. 4658-GE/R-9/PF.—Shri V. A. T. Rao, an officer of the Emergency Cadre of the Indian Audit & Accounts

Service, has been posted as Deputy Accountant General, Telegraph Check Office, Calcutta, with effect from the 25th October, 1951.

No. 4668-GE/Q-1/PF.—On return from leave, Mr. Durvesh Alam Qadri, an officer of the Indian Audit and Accounts Service, has been posted as Deputy Accountant General (Junior) in the office of the Accountant General, Madras, with effect from the 27th October, 1951.

No. 4693-GE/625-50.—Shri N. B. Dutt, a temporary substantive Assistant Accounts Officer in the office of the Accountant General, Bihar, Ranchi, has been made provisionally substantive Assistant Accounts Officer with effect from the 1st December, 1949 and confirmed in that grade from the 1st July, 1950.

Shri P. Mukherji, an officer of the Emergency Cadre of the Indian Audit & Accounts Service, has been made provisionally substantive Assistant Accounts Officer in the office of the Accountant General, Bihar, Ranchi, with effect from the 1st July, 1950.

No. 4696-GE/S-19/PF.—On return from leave, Sri K. M. Subramaniam, an officer of the Indian Audit and Accounts Service, has been reposted as Audit Officer, Damodar Valley Corporation, Calcutta with effect from the 30th October, 1951.

No. 4698-GE/R-17/PF.—Sri S. Ramayya, an officer of the Indian Audit and Accounts Service, has been posted as Accountant General, Travancore-Cochin, Trivandrum with effect from the 30th October, 1951.

No. 4700-GE/428-51.—Sri M. Yegnaswami, a provisionally substantive Assistant Audit Officer in the Audit Department, Defence Services, has been confirmed as Assistant Audit Officer in that Department with effect from the 1st January, 1950.

Shri H. N. Bhattacharya, a provisionally substantive Assistant Audit Officer in the Audit Department, Defence Services, has been confirmed as Assistant Audit Officer in that Department with effect from the 1st January 1950.

Sri J. C. Das Gupta, a temporary substantive Assistant Audit Officer in the Audit Department, Defence Services, has been confirmed as Assistant Audit Officer in that Department with effect from the 1st January, 1950.

No. 4763-GE/S-24/PF.—Mr. Ahmaduddin Siddiqi, an Officer of the Indian Audit and Accounts Service, has been posted as Deputy Accountant General (Works), in the office of the Accountant General, Bombay, with effect from the 1st November, 1951.

No. 4782-GE/550-51.—On completion of his training in the Simla Training School, Sri M. Ramachandran, a probationer in the Indian Audit & Accounts Service, has been posted to the office of the Accountant General, Madras for further training with effect from the 7th November, 1951.

No. 4790-GE/M-8/PF.—On relief by Sri S. Ramayya, Shri K. Govinda Menon, an Officer of the Indian Audit & Accounts Service, has been posted as Deputy Account-

ant General (Senior) in the office of the Accountant General, Travancore and Cochin, Trivandrum with effect from the 30th October, 1951.

P. D. PANDE,
Deputy Comptroller & Auditor General of India.

MINISTRY OF DEFENCE

Directorate General, Ordnance Factories

NOTIFICATIONS

Calcutta, the 7th November 1951

No. 113/51/G.—Mr. J. N. Khanna, Offg. D.A.D.G., O.F., is granted P.L. for 1 month, 24th September 1951.

No. 114/51/G.—Mr. Brij Mohan Taneja, offg. Supdt., Dte. Genl., Ord. Fys., is appointed to officiate as O.S. against a vacant post of D.A.D.G., O.F. vice Mr. J. N. Khanna granted leave, 24th September 1951.

The 8th November 1951

No. 116/51/G.—Mr. B. D. Jha, offg. Supdt., Dte. Genl., Ord. Fys., is appointed to officiate as O.S. vice Mr. J. Chakravorti reverted, 25th September 1951.

K. K. FRAMJI,

Director General, Ordnance Factories.

MINISTRY OF LABOUR

Regional Directorate of Resettlement & Employment

NOTIFICATIONS

Bombay, the 10th November 1951

No. RE/48(12)/4480.—Leave on average pay for a period of twelve days is granted to Shri M. T. Gulrajani, Deputy Director of Resettlement & Employment, Bombay, with effect from 12th November 1951 to 23rd November 1951 (both days inclusive) with permission to prefix Sunday 11th November 1951. He will resume the same post on expiry of his leave.

M. G. MONANI,

Regional Director,
of Resettlement & Employment,
Bombay.

Simla-3, the 14th November 1951

No. E-203.—Shri Madan Gopal, Distt. Employment Officer, Gurdaspur (now transferred to D.E.E. Karnal) was granted 13 days earned leave from 15th September 1951 F.N. He resumed duties as D.E.O. at Gurdaspur on 28th September 1951 F.N. after the expiry of the leave period.

G. R. NAGAR,
Regional Director.

CORRIGENDUM

Lucknow, the 15th November 1951

No. 0302/64/10619.—In modification of this Directorate notification No. 0302/64/9853 dated the 24th October 1951, Sri Brahm Dev, Assistant Employment Officer, (Tech.) Sub Regional Employment Exchange, Allahabad was granted earned leave for 25 days from September 12, 1951 to October 6, 1951 with permission to suffix 'closed' holidays from October 7 to 14, 1951 to the leave.

RADHA KANT,
Regional Director.

LABOUR APPELLATE TRIBUNAL OF INDIA

NOTIFICATION

Calcutta, the 9th November 1951

No. LA.6(2)/3563.—The following decisions of the Bombay Bench of the Tribunal are published for general information.

1. Appeal Nos. Bom-91 and Bom-92 of 1951.
2. Appeal No. Bom-128 of 1951.
3. Appeal No. Bom-144 of 1951.
4. Appeal No. Bom-176 of 1951.
5. Appeal No. Bom-98 of 1951.
6. Appeal No. Bom-119 of 1951.

7. Appeal No. Bom-124 of 1951.
8. Appeal No. Bom-183 of 1951.
9. Appeal No. Bom-95 of 1951.
10. Appeal No. Bom-140 of 1951.
11. Appeal No. Bom-66 of 1951.
12. Appeal No. Bom-181 of 1951.
13. Appeal No. Bom-190 of 1951.

J. N. MAJUMDAR,

Chairman,

Labour Appellate Tribunal of India.

Appeal (Bom) No. 128 of 1951

The Management of the Kamala Mills Ltd., Singanallur, Coimbatore District.

Appellants.

versus

1. Nachimuthu Spinning No. 88.
2. Nachimuthu Spinning No. 110.
3. Ganapathiappan Spinning No. 25.
4. Veikatachalam Spinning No. 15.
5. Nailarma Naicken Spinning No. 87.
6. Subbian Spinning No. 93.
7. Nanjappan Spinning No. 41.

Respondents.

In the matter of an appeal against the award of the Industrial Tribunal (Shri P. V. Krishnaswami) Coimbatore in Industrial Dispute No. 4-M of 1950, dated the 29th March 1951.

The 30th day of August 1951

Present :

Mr. K. P. Lakshmana Rao, President.

Mr. G. P. Mathur, Member.

Appearances :

For the Appellants :

Shri N. S. Venkatasubba Iyer, Advocate.

For the Respondents :

Shri T. S. Ramanujam, Vice-President, Hind Mazdur Sabha and Shri P. S. Chinnadurai, Secretary, Coimbatore District Textile Workers' Union, Singanallur.

State.—Madras.

Industry.—Textile (Cotton).

DECISION

This is an appeal by the management of the Kamala Mills Ltd., Singanallur, Coimbatore District, against the award of the Industrial Tribunal, Coimbatore, in I.D. No. 4-M of 1950 in an application under section 33A of the Industrial Disputes Act. The application under section 33A was made by the seven respondents complaining that they were unjustly dismissed on 5th February 1951 and that their dismissal amounted to victimization. The Tribunal ordered their reinstatement on their reporting themselves at the mills within 15 days of the publication of the award and awarded them costs at the rate of Rs. 10 each which was also to be paid within 15 days together with their wages for the period of forced unemployment on the average which obtained in the case of each of them for the 3 months prior to their dismissal.

2. The main point urged on behalf of the appellants is that the dismissal of the respondents was ordered after obtaining the permission of the Tribunal as provided by section 33 of the Act and therefore there was no contravention of the said section. The learned Tribunal has expressed himself on this matter in the following words :

"The fact that permission was obtained under section 33 ex parte and without disclosing all material facts can be no bar to an application under section 33-A". * * *

"Again the Court has always a right to set aside an order passed by it ex parte".

3. We have given our best consideration to the matter and we cannot persuade ourselves to agree with the learned Tribunal. Our view is that when once permission under section 33 has been given and in pursuance of that action has been taken there is no scope for a complaint under section 33A, which clearly lays down that its provisions are attracted only "where an employer contravenes the provisions of section 33 during the pendency of proceedings before a Tribunal". Our attention has been drawn to the language of the permission granted by the Tribunal. The Tribunal started by saying that no permission was necessary and then finally granted permission laying down certain conditions.

In our judgment section 33-A cannot in any view of the matter come into play. If the view of the Tribunal be accepted that no permission was necessary even then there can be no contravention of section 33 and no complaint under section 33-A would lie. If however it is taken that permission was granted as it was actually granted with certain conditions, the same result would follow even if the conditions have not been fulfilled. We do not think that the learned Tribunal was right in remarking that the Court has always a right to set aside an order passed by it ex parte. It may be possible in certain cases when moved by a party for that purpose to set aside an ex parte order but in an application under section 33-A a Tribunal would not be entitled to treat its order (though passed ex parte) as a nullity until and unless that order was set aside. The appellants were fully justified in acting upon it and treating it as permission granted.

4. We think that the learned Tribunal went outside his jurisdiction when he dealt with the facts of the case and came to the conclusion adversely to the appellants in an application under section 33-A, which was not applicable. Before parting with this case we might draw the attention of the learned Tribunal to the decision of the Calcutta Bench of this Tribunal in the case of the employees of the Kusum Hosiery Mills. *Kusum Hosiery Mills v. The Kusum Hosiery Mills*, Calcutta (1 L.L.J. 1951 p. 233) wherein it has expressed its disagreement with the observation of the Madras High Court that an application under section 33 can be disposed of ex parte without giving notice to the other party. This case illustrates the mischief which can arise on account of passing ex parte orders under section 33.

5. We have therefore no hesitation in setting aside the order of the learned Industrial Tribunal and dismissing the application under section 33A made by the seven respondents. We however make no order as to costs.

K. P. LAKSHMANA RAO,

President

G. P. MATHUR.
Member.

Appeal (Bom) No. 91 of 1951

The Management of the Jiyajeeroa Cotton Mills Ltd., Gwalior, P.O. Birla Nagar, Madhya Bharat.

versus

(1) Jiyajeeroa Cotton Mills Ltd. Gwalior
(2) The Motilal Agarwal Mills Ltd., Gwalior.

Appeal (Bom) No. 92 of 1951

The President, Mazdoor Congress (Representative Union) under B.I.R. Act as adopted in Madhya Bharat, Fort Road, Gwalior.

versus

The Management of
(1) Jiyajeeroa Cotton Mills Ltd. Gwalior
(2) Motilal Agarwal Mills Ltd. Gwalior

In the matter of appeals against the award of the Industrial Court, Madhya Bharat, in Reference No. 5 of 1950, published in the Madhya Bharat Government Gazette dated the 14th April 1951

The 17th day of August 1951

Present :

Mr. K. P. Lakshmana Rao, President.

Mr. G. P. Mathur, Member.

Appearances :

For the Appellants in Appeal No. 91 and for Respondent No. 1 in Appeal No. 92 of 1951.

Shri K. Rajah Iyer, Advocate.

Shri M. Ranganathshastri, Advocate.

Shri B. Narayanaswamy, Advocate.

Shri K. N. Srivastava; Legal Adviser, J. C. Mills.
M/s Amarchand & Mangaldas, Attorneys-at-Law.

For Respondents No. 1 in Appeal No. 91 and for Appellants in Appeal No. 91 of 1951.

Shri V. V. Dravid with Shri G. R. Tiwari.

For Respondent No. 2 in Appeal Nos. 91 and 92 of 1951.

Shri P. W. Sahasrabudher, Advocate.

For the Government of India.

Shri G. N. Joshi, Advocate, with Shri M. V. Jayakar,
Solicitor to the Central Government at Bombay.

For the Government of Madhya Bharat.

Shri K. A. Chitale, Advocate General, Madhya Bharat.

State.—Madhya Bharat.

Industry.—Textile (Cotton).

DECISION

These two appeals are against the award of the Industrial Court of Madhya Bharat, consisting of Shri G. R. Garde and Shri R. S. Date, given on the 17th of March 1951. It appears that on 18th July 1950 the President, Mazdoor Congress, Gwalior, made a reference under section 73(A) of the Bombay Industrial Relations Act as adapted in Madhya Bharat with regard to the bonus for the year 1948 on behalf of the employees of the Jiyajeeroa Cotton Mills, Ltd., Gwalior and Motilal Agarwal Mill's Ltd., Gwalior. The former raised certain constitutional objections and also pleaded that the employees were not entitled to any bonus, while the latter confined themselves mainly to the plea that they have not made sufficient profits during the year and therefore are not in a position to pay any bonus.

2. The Industrial Court heard the preliminary points raised by the Jiyajeeroa Cotton Mills Ltd. and decided that it was not a competent forum for deciding whether section 73(A) was ultra vires of the constitution, as the Court was constituted by the same Act and its functions were defined under section 87 of the same Act. On other constitutional points also it did give its decision.

3. When the appeal came up for hearing our attention was drawn to Order XXVII-A Rules 1 and 4 of the Civil Procedure Code which requires that in such cases notice should be given to the Attorney General of India and the Advocate General of Madhya Bharat. We therefore gave notice accordingly and the Government of India is represented before us by Shri G. N. Joshi and the Government of Madhya Bharat by Shri Chitale the Advocate General. The learned Counsel for Jiyajeeroa Cotton Mills Ltd. has formulated preliminary objections in the following manner :—

(1) Section 73A of the Industrial Relations Act was invalid as being repugnant to Article 14 of the Constitution.

(2) Any award of bonus by an Industrial Court will be in contravention of the spirit of Articles 19F and 31 of the Constitution.

4. It was also argued that the Industrial Court was not competent to decide the constitutional questions. We have heard the learned Counsel for the parties on this point and in the view that we take it is unnecessary to decide the question. The competency of this Tribunal to decide the question cannot be doubted. We do not propose to go into detailed examination of the points raised but *prima facie* there is no repugnancy to Article 14 of the Constitution by the mere fact that, as a matter of procedure, the union has been allowed to make the reference under section 73(A) of the Bombay Industrial Relations Act. To illustrate the point under the Code of Civil Procedure when a minor sued or is being sued, he is to be represented by a next friend or a guardian ad litem. That does not mean that the State denies equality before the law to adults. With regard to Article 19(f) it only safeguards the rights of citizens and not of the Corporations or corporate bodies and therefore it is not applicable in the present case.

5. Similarly Article 31(1) is also inapplicable because no person is being deprived of his property without the authority of law. On the other hand the award of bonus is enforced as a right which is now recognised by law and by a Tribunal having authority of law. We would therefore reject these preliminary constitutional objections and proceed with the merits of the case.

6. It is urged on behalf of Jiyajeeroa Cotton Mills Ltd. that the question of bonus should have been decided on industry-cum-region basis. But it is clear to us that this cannot be given effect to when the dispute has been raised by the employees of two mills only and one of which alleges to have suffered a loss. There can be no doubt that in a former dispute employees of Jiyajeeroa Cotton Mills Ltd. and Motilal Agarwal Mills Ltd. claimed bonus for the year 1944 onwards on the same scale and conditions on which employees in cotton mills in Ujjain were paid. This only shows that in that particular year employees of the said mills were satisfied if the bonus was awarded on the pattern of cotton textile mills in Ujjain but that does not necessarily mean that they were claiming the bonus on industry-cum-region basis. It is also

apparent that the bonus was awarded for the year 1944 and onwards, but this will not debar the workmen from making fresh claim after the expiry of the award. There was also a suggestion that the question of bonus for the year 1949 with regard to the employees of Jiyajeerao Cotton Mills Ltd. should be considered along with the similar disputes pending in respect of Indore and Ujjain centres before the Industrial Court, but this was, for obvious reasons, disallowed and we understand that those disputes are still pending. We do not think that the Tribunal would have been justified in waiting for the decisions in those cases.

7. On behalf of Jiyajeerao Cotton Mills it was also urged that as for some years past bonus is being granted on the Indore & Ujjain scale, it has created an usage and must not be departed from. We have no hesitation in holding that any practice for so short a time would not create an usage. The present circumstances and the concept of bonus which has since been evolved have to be taken into consideration. In our opinion the only two questions which have got any importance in this case are (1) as to what should be basic year for calculation of the bonus for the year 1949 and (2) whether the Jiyajeerao Cotton Mills Ltd. will have any surplus profits after providing for all the prior charges in accordance with the decision of this Tribunal in Appeals Nos. 1 and 5 of 1950. The learned Tribunal based its award on the balance sheet of 1949 (from 1st July 1948 to 31st March 1949) and Mr. D. V. Dravid expressed his consent before the Tribunal to be bound by the trading results of that balance sheet. The whole difficulty arose when the Commissioner of Labour, Madhya Bharat, drew the attention of the Mill Company and the Court that the said balance-sheet was for 9 months only. The Mill Company then contended that the trading results for the period commencing from April 1949 and ending 31st March 1950 should be made the basis of calculation as it covered a greater period of the year 1949. The Tribunal rejected this plea and made the following observations :—

"The Commissioner of Labour pointed out on receipt of the information from the Mills that the mills had linked the distribution of bonus for calendar year 1945 to the accounting period July 1944 to June 1945 and so on up to 1948. Thus according to this practice the relevant period for consideration in respect of calendar year 1949 would be the accounting period from July 1948 onwards which in this particular case happens to cover only 9 months instead of 12 owing to the change in their financial year introduced by the company starting with 1st April 1949". In view of the established practice and the fact that if the balance-sheet from 1st April 1949 to 31st March 1950 is adopted the workers would be deprived of the bonus for the period between July 1948 and 31st March 1949, the course adopted by the learned Tribunal appears to be correct. We do not think it is necessary to decide as to how to make up 12 months because as a result of basing calculation on the balance sheet from July 1948 to March 1949 the bonus shall be for 9 months only to which period the year 1949 has on account of the adoption of financial year from April to March has been cut short.

8. The next point is whether any surplus profits would be left after meeting all the prior charges. The learned Tribunal has given the following figures :—

	In lacs of rupees.
Gross profit	56.78
Depreciation	2.27
	<hr/>
Taxes	54.51
	10.00
	<hr/>
Reserves for rehabilitation, etc	44.51
	2.00
	<hr/>
Return of 6 per cent. on paid up-capital	42.51
	27.82
	<hr/>
Return on reserves employed as working capital	14.69
	1.42
	<hr/>
Extraneous profits—in which the labour of the Jiyajeerao Cotton Mills Ltd., had no contribution	13.27
	8.15
	<hr/>
Residuary surplus ...	5.12
Bonus to worker-employees ...	3.91
	<hr/>
	1.21

9. On behalf of the company it is urged that depreciation in this case is too low, namely, 2.27 lacs and that it ought to have been as allowed in the subsequent year by the Income Tax Department. But as there was no income tax payable for that year the depreciation allowed by the income tax authorities in the subsequent year cannot be adopted. We think, therefore, that figure put down by the learned Tribunal, though arbitrary should be maintained. The Mill Company further objected to the amount (2 lacs) allowed for rehabilitation. But as there is no evidence to show as to when the machinery was purchased, the period for which it is likely to be usefully employed, the amount already in-hand and the amount required for rehabilitation, we cannot calculate a definite figure and hold that 2 lacs allowed by the Tribunal should be retained. The Tribunal has allowed 27.82 lacs as return of 6 per cent on paid-up capital where the Mill Company had themselves allotted only Rs. 12,36,408 calculating the return at a lower rate. The return is not unreasonable though the Tribunal has been generous. In any aspect of the case we think that there is sufficient surplus for awarding the bonus at the rate of 1½ months' for the year 1949 which we take to be from July 1948 to 31st March 1949.

10. A reference has been made to an Indo-Award published in Madhya Bharat Gazette dated 28th November 1949 in which the bonus allowed was up to 31st December 1948 and it is urged that as the workmen claimed bonus on that pattern it must be assumed that they claim for the calendar year. We do not think that merely because they claim on that standard they have also adopted the calendar year in accordance with that award. In our opinion no ground is shown for interfering with the award of the lower Court awarding 1½ months' bonus for the year 1949 and we would dismiss the appeal.

11. In Appeal No. 92, which has been filed on behalf of the President, Mazdoor Congress, Gwalior, we think there is no force in it. The President who argued the case started with laying down as to what was meant by the living wage and the minimum wage, and that as there was vast disparity between the living wage and the wages allowed to the workers they must be granted bonus on liberal scale in order to make up the difference. We, however, think that these considerations do not arise in awarding the bonus and we have to follow the principles laid down in Appeals 1 and 5 of 1950 decided by the Full Bench of this Tribunal. A lengthy argument has been addressed to us about the fact that in the year 1948 all the reserves were capitalized and it has been contended that the mill company was utilising these reserves for the benefit of the shareholders, but as observed in Appeals Nos. 1 and 5 it was matter which was legally in the competency of the directors and cannot be objected to. The next argument put forward is that while the entire value of the machinery is covered up by the accumulation of depreciation from year to year, in the year 1948 the mill company had adopted the method of revaluation which was not proper. In the absence of any materials before us and without investigation we are not prepared to hold that revaluation was not bona fide and was designed in order to prejudice the workers. In the balance sheet of 1949, as adopted by the Tribunal, there is an amount of Rs. 12,73,341/9/5 which was brought forward from the last year's account, that has been left out by the Tribunal. It is urged on behalf of the Mazdoor Congress that this was not the correct method and it ought to have been taken into account. We do not think any useful purpose will be served in deciding that point categorically. It is sufficient for our purpose that on all accounts there would be a surplus profit sufficient to pay the bonus as granted by the Tribunal. The other objections are that extraneous profits should not have been excluded, the amount given away in donations should have been taken into account and that no depreciation should have been allowed on Laskar property. We do not think it is necessary to go into all these details and give our decision on them. We are satisfied that no definite case has been made out for giving a higher bonus than what has been awarded by the Tribunal. As a matter of fact the bonus for 1½ months for the year 1949 which was only from July 1948 to 31st March 1949 being a period of 9 months would work up to two months' bonus if it were for the whole calendar year. We would therefore dismiss this appeal also. As both the appeals are dismissed we make no order as to costs.

K. P. LAKSHMANA RAO,
President.

G. P. MATHUR,
Member.

Appeal (Bom) No. 144 of 1951

Sri Jayalakshmi Foundry, Madras, by
Proprietor V. K. Ponnuswamy-
Niacker.

Appellant.

versus

(1) Workmen employed under it.

(2) Workmen employed under it re-
presented by Sri Jayalakshmi Foundry
Workers' Union, Madras.

Respondents.

In the matter of an appeal against the award of the Industrial Tribunal (II) (Sri T. D. Ramaiya) Madras, in Industrial Dispute No. 23 of 1950, published in the Fort St. George Gazette dated the 10th April 1951.

The 31st day of August 1951

Present :

Mr. K. P. Lakshmana Rao, President.

Mr. G. P. Mathur, Member.

Aparances :

For the Appellants :

Sri K. Venkataramani, Advocate.

For the Respondents :

(1) No appearance.

(2) Sri R. Ramanathan, President, Jayalakshmi Workers' Union, Madras.

State.—Madras.

Industry.—Engineering.

DECISION

This is an appeal by Sri Jayalakshmi Foundry, Madras, against the award of the Second Industrial Tribunal, Madras, in Industrial Dispute No. 23 of 1950, made on the 29th day of March 1951 and published in the Fort St. George Gazette on 10th April 1951. There was an industrial dispute between the workers and the management of Sri Jayalakshmi Foundry, Madras, which the Government of Madras by its order dated 12th December 1950, referred to the Second Industrial Tribunal, Madras. There were many points in dispute but this appeal is preferred only against the award relating to dearness allowance. All other matters were decided in favour of the appellant.

2. The workers were getting dearness allowance at the rate of 13 annas per day for a month of 26 days. The learned Tribunal has now increased it to 2½ annas a point over 100 on the cost of living index for working classes in the Madras City. This by calculation comes to Rs. 1/6/6 per day. It is urged on behalf of the appellants that the learned Tribunal has allowed the retrenchment of 10 workers on the ground that there has been a progressive increase in the loss sustained by the firm and for the same reason it has not given any increase in the minimum wages. But it is argued that in spite of all these findings the dearness allowance has been so much enhanced that it will absorb all the savings made on account of the retrenchment. It appears that previously this firm was paying dearness allowance at the rate of 8 annas per day but in November 1949 there was a compromise between the parties by which it was raised to 13 annas per day. But before a year had expired from the date of that compromise the respondents made a fresh demand for the increase of the dearness allowance and the learned Tribunal has increased it on the ground that a Madras Tribunal in deciding the case of 8 engineering firms in Madras by its award dated 18th July 1950 has fixed the dearness allowance at 2½ annas per point. We have heard learned Counsel for the appellant and the representative of the respondent and in our opinion the increase in the dearness allowance was not justified. Even in the award referred to which was published at page 2545 of the Fort St. George Gazette dated 8th August 1950 it has been clearly observed by the learned Tribunal : "As stated already the question of the capacity of the industry to pay would be a very material consideration". Having regard to this observation it is clear that the appellants are not in a position to pay any increased dearness allowance when they are suffering progressive losses from year to year and it would spell complete disaster if the dearness allowance is increased. It would also be improper on the ground that it was by compromise that the dearness allowance was raised to 13 annas per day only in November 1949. A compromise must be respected for some time to come and should not be departed from unless there are very good grounds for it.

3. We would therefore allow this appeal and set aside the order of the Tribunal with regard to the increase in the dearness allowance. The application under section 14

for stay of the implementation of the award which was placed on the list of hearing is struck off. The parties should bear their own costs.

K. P. LAKSHMANA RAO,
President.

G. P. MATHUR,
Member.

Appeal (Bom) No. 176 of 1951

The Samalkot Tile Manufacturers Association, consisting of :—

(1) Jayalakshmi Tile Works,
(2) Anjaneya Tile Works,
(3) Universal Tile Works,
(4) Deccan Tile Works,
(5) Jayabharat Tile Works,

represented by Vakil Sri C. Suryanarayana, B.A., B.L., and the Secretary, Sri Ayodhula Katayya.

Appellants.

versus

The Samalkot Tile Factories Workers' Union, represented by its President and Secretary.

Respondents.

In the matter of an appeal against the award of the Industrial Tribunal (Sri Abdul Satar) Vijayawada, in Dispute No. 6 of 1951, published in the Fort St. George Gazette dated the 1st May 1951.

The 31st day of August 1951

Present :

Mr. K. P. Lakshmana Rao, President.

Mr. G. P. Mathur, Member.

Aparances :

For the Appellants :

Sri D. Narasa Raju, Advocate, Madras with C. Suryanarayana, Vakil, Peddapuram.

For the Respondents :

Sri V. Venkataraman, Advocate, Madras.

State.—Madras.

Industry.—Miscellaneous

DECISION

This is an appeal on behalf of five tile factories through the Samalkot Tile Manufacturers' Association, Samalkot, against the Samalkot Tile Factories Workers' Union. It appears that there was a previous award between the four tile manufacturing factories excluding Jayabharat Tile Works by which higher wages and dearness allowance were granted to the workers. The said award was to lapse on the 23rd August 1950 and Jaya Bharat Tile Works which was not a party to the award closed on the 24th August 1950 while the four others gave a notice on the 24th July 1950 and closed down after a lapse of two months namely on 25th September 1950. The workers raised a dispute and it was referred to adjudication on the 27th October 1950. The learned Industrial Tribunal, Vijayawada, gave its award on the 31st March 1951 and holding that the closure was mala fide ordered reinstatement of workers and has awarded compensation to all the workers in the case of men at the rate of Re. 1 per day, in the case of women at 12 annas a day and in the case of boys at 8 annas a day for 26 days in the month during the period of closure; in the case of Jayabharat from 24th August 1950 and in the case of other four mills from 25th September 1950 until the date of reopening of the mills.

2. It is contended in appeal that the appeal is entertainable because a substantial question of law is involved as to whether the lock-out was legal or not having regard to sections 24, 10(3), 22 and 23 of the Industrial Disputes Act, 1947. It is further contended that the closure of the mills was perfectly legal and legitimate under the provisions of the Industrial Disputes Act and the employer is under no special duty to continue the industry for the benefit of the workers and the Act cannot be so construed as to unduly restrict or interfere with the well recognised common law rights. We have heard the learned Counsel for the parties and in our opinion the reference as it was made was not happily worded. It was couched in the following words :

- "1. Whether the closure of the tile works mentioned in Annexure (A) above is justified and
2. If not, what relief should be given to the workers."

In our opinion the first issue should be whether the closure of the tile works was legal or not and if it is held to be illegal then the question would arise whether it was justified or not and if not justified what relief should be given to the workers.

3. We have satisfied ourselves that neither sections 22 or 23 of the Industrial Disputes Act apply because the closure was made by four mills who were parties to the award after its lapse and after two months from the date of the notice. This being our view the question does not arise whether it was justified or not. In our opinion all the discussion on that point made by the Tribunal is unnecessary and irrelevant. We are further of opinion that in these circumstances the workers were not entitled to any relief as compensation. The case of Jayabharat Tile Works stands on a different footing. They closed on the 24th August 1950 and reopened on the 13th December 1950. We are doubtful if the closure from 24th August which was effected in order to avoid the payment of wages at a higher rate was a closure at all, when subsequently under the same circumstances the mill has been reopened. We are of opinion that it amounted to a unfair labour practice and was effected in order to bring pressure to bear on the workers to accept lower rates. As such we think that the appeal of Jayabharat Tile Works should be dismissed and the order for compensation as against them should be confirmed. There is a clear direction in the award in the following words:

"I hold that the workers as they stood in the muster rolls on the days of closure in the five mills should be reinstated and that they would be paid compensation during the period of closure at the rates indicated above until the mills reopen. The wages actually paid to such of the workers as have engaged themselves under Jayabharat x x x shall be deducted from the amount of compensation they are entitled to receive."

This direction shall also be confirmed so far as it relates to Jayabharat Tile Works and shall apply only to those workmen who come back within 15 days of this award. The result is that the appeal with regard to Jayalakshmi Tile Works, Anjaneya Tile Works, Universal Tile Works and Deccan Tile Works is allowed while with regard to Jayabharat Tile Works is dismissed. The application under section 14 for stay of the implementation of the award which was placed on the list of hearing is struck off. We make no order as to costs.

K. P. LAKSHMANA RAO,
President.

G. P. MATHUR,
Member.

Appeal (Bom) No. 98 of 1951

Janab Abdul Jabbar Khan, Workman,
Warp Winding J.I., Working in the
Binny Mills, Bangalore.

versus

The Management, Bangalore Woollen,
Cotton & Silk Mills Co. Ltd., Bangalore.

Respondent.

In the matter of an appeal against the award of the Industrial Tribunal (Sri A. R. Nagesvara Iyer, Chairman and Sri T. Singaravelu Mudaliar, Member), Bangalore, dated the 2nd April 1951 in A.C. 3/50-51.

The 6th day of September 1951

Present :

Mr. K. P. Lakshmana Rao, President.
Mr. G. P. Mathur, Member.

Appearances :

For the Appellant :

Sri G. V. Ramachar, Advocate, with Sri D. Venkatesh, Secretary, Binny Mills Labour Association, and Sri K. H. Kulkarni, Secretary, Indian National Trade Union Congress, Mysore State Branch.

For the Respondent :

Sri O. T. G. Nambiar, Advocate, instructed by Mr. S. D. Miller of Messrs. King & Partridge, Solicitors.

State.—Mysore.

Industry.—Textile.

DECISION

This is an appeal by one Janab Abdul Jabbar Khan against the decision of the Industrial Tribunal, Bangalore, dated the 2nd April 1951. The facts of the case briefly stated are : that on the 11th January 1951 the appellant was found in a suspicious state when he was about to leave the gate of the mills and on a search being made he

was found in possession of 1½ lbs. of rayon yarn concealed under his waist coat. An enquiry was conducted by the manager of the mills on the 16th January and the material portion of his report is in the following words :

"I have found you guilty of the misconduct and you will be dismissed under standing order 9 (a) 4 as from to-day's date on receipt of permission from the Industrial Tribunal to whom your case has been referred to. Pending decision of the Tribunal you will not be allowed to enter the mill".

Subsequent to this an application for permission to dismiss the appellant was made on the 24th January 1951 and it was granted by the learned Tribunal by its order dated 2nd April 1951. This is an appeal against that order.

2. It is not disputed that no appeal lies against an order under section 33 unless a substantial question of law is involved under section 7(a) of the Industrial Disputes (Appellate Tribunal) Act, 1950. The learned Counsel for the appellant has formulated two points of law namely (1) that the learned Tribunal exceeded his authority in going through a re-trial of the matter in controversy and (2) that the Tribunal was wrong in granting permission to dismiss as from a prior date i.e., 16-1-51 while it was actually exercising its power of granting permission on 2nd April 1951. In our opinion both these points of law are of no substance. When an objection was raised against the enquiry held by the mill manager the Tribunal recorded certain evidence in order to come to a finding whether the charge against the appellant was correct. This is certainly not a substantial question of law. The second point is equally futile. Permission was given on the 2nd April 1951 and it was on the basis of that permission that the appellant was dismissed. But the dismissal took effect from the date of the report of the mill manager in which he had clearly mentioned that the appellant will be dismissed under standing order No. 9(a) 4 as from that date, on receipt of permission from the Industrial Tribunal and it actually prohibited him from entering the mill which amounted to suspension pending the grant of permission. In our opinion there was nothing illegal in this. The appeal is therefore not maintainable. Even on the merits he has got no case because the appellant was found in possession of 1½ lbs. of rayon yarn which belonged to the mills and he could not satisfactorily explain its possession and therefore even without any evidence he can be found guilty of theft and punished for it.

3. The appeal is accordingly dismissed but without costs.

K. P. LAKSHMANA RAO,
President.

G. P. MATHUR,
Member.

Appeal (Bom) No. 119 of 1951

The workers of Sree Meenakshi Mills Ltd., represented by the National Textile Workers' Union, 28, Tamil Sangam Road, Madurai.

Appellants.

versus

(1) The Sree Meenakshi Mills Ltd., Thirupparankundram Road, Madurai.
(2) The workers of the said concern other than the Appellants.

Respondents.

In the matter of an appeal against the award of the Special Industrial Tribunal (Hon'ble Justice P. Raghavan) published in the Fort St. George Gazette, dated the 27th March 1951.

The 6th day of September 1951

Present :

Mr. K. P. Lakshmana Rao, President.
Mr. G. P. Mathur, Member.

Appearances :

For the Appellants :

Sri G. Ramanujam, Secretary, I.N.T.U.C. (Tamil Nadu).

For the Respondents :

(1) Sri S. N. Krishnamurti.
(2) No appearance.

State.—Madras.

Industry.—Textile (Cotton).

DECISION

This is an appeal on behalf of the workmen of Sree Meenakshi Mills Ltd., Madurai, represented by the

National Textile Workers' Union against the award of the Special Industrial Tribunal, Madurai, Hon'ble Justice Sri P. Rajagopalan, published in the Fort St. George Gazette, dated 27th March 1951. This reference to the special Industrial Tribunal was made by the Government of Madras in pursuance of an agreement arrived at between the parties at a meeting held at Delhi on 19th and 20th May 1950 at which some officers of the Central Government and Madras Government and representatives of the parties were present and the following were the agreed conclusions arrived at :—

- (1) The Mills should reopen as soon as possible and in any case not later than the 28th May 1950.
- (2) The management of the Sree Meenakshi Mills would reopen the mills on the same terms and conditions as prevailed before 10-3-1950 with regard to workloads, complement of labour, personnel, etc.
- (3) Simultaneously, all matters at present under dispute between the management and labour which are under reference pending adjudication before the Industrial Tribunal at Madurai would be either transferred or referred to another Special Tribunal to consist of a person of the status of a High Court Judge, or, in case a High Court Judge is not available, any other person acceptable to both parties.
- (4) The question of work-load and wage structure with regard to the Sree Meenakshi Mills Ltd., should, in addition, be expressly referred to the Special Tribunal so constituted.
- (5) The intimation of the reopening of the Mills will be sent by telegram to the Secretary to the Government of Madras, Development Department, who agrees to get the orders issued with the greatest possible expedition.
- (6) The civil suit filed and notice of suit issued by the management covering the questions to be adjudicated by the Special Tribunal will be withdrawn.
- (7) The prosecutions pending against the management will be stayed and when the management implements the award passed by the Special Tribunal, the Government would consider the question of withdrawal of the prosecutions.

The points referred to were 9 in number on which the learned Special Tribunal gave his award, which was duly published on 27th March 1951 in Fort St. George Gazette.

2. The present appeal is confined to 2 points only namely :—

- (1) Refund of 4 or 4½ days wages deducted from the wages of workers for alleged stoppage of work on the 26th of July 1949.
- (2) Whether all the workers thrown out of employment on or after the 10th March 1950 by the management of mills are entitled to compensation and if so to what extent?

Both these points have been decided against the appellants who contest the correctness of those findings.

3. Point No. 1.—It appears that one ring spinner Sri Ganpathi suddenly died on the night of 24th July 1949 at about 1 A.M. and this fact came to the notice of the workers when they came out for interval of rest at 2-30 A.M. They probably scented foul play and getting panicky declined to resume work. Other men who were to join in subsequent shifts on Monday 25th similarly declined to enter the mills. The workers did not resume work till 7 A.M. on 26th July 1949. The management cut the wages of these workers for the period of their absence and acting under section 9 of the Payment of Wages Act (Act IV of 1936) further deducted 3 days wages from the amount due to them.

4. The learned Special Tribunal came to the conclusion that the workers had acted in concert and absented themselves without notice and without reasonable cause and therefore the proviso to section 9 of Payment of Wages Act applied.

5. It is urged by Sri Ramanujam that the said section did not apply as the workers had not acted in concert, that there was a reasonable cause, and that there was no time for previous notice. We are unable to agree with any of these contentions. When all the workmen absented themselves one batch after another it would certainly amount to acting in concert and it was not necessary to prove that they had any former consultation and had come to that decision. Similarly the fact that the workers became suspicious and panicky would not be a reasonable cause in the eye of law. It may be due to ignorance, perverseness or foolishness but no reasonable man could

have been expected to take that serious step on such flimsy hypothesis. It is no doubt true that there was no time for long previous notice but at the same time it was the duty of the workers to ascertain the facts and to have approached the proper authorities for permission to stay away till after the funeral of Ganapathi was over. No such thing was done and it would be highly prejudicial to the peace and welfare of the industry if workers are allowed to take such steps on their own initiative. The section allows deduction of 8 days wages but a very modest course was adopted and wages for 3 days only were deducted. In our opinion there is no room for any interference with this part of the award and it must be upheld.

6. Point No. 2.—The Industrial Tribunal has remarked that question of compensation does not arise on the merits. We do not agree. Under section 33 the management could not during the pendency of a dispute before another Tribunal introduce a new system of work-loads and thus change the existing conditions of service and on that will depend the question whether the strike by the workers amounted to an illegal strike and whether the lock-out was legal. In this view the reference on that point was not *ultra vires* the Industrial Disputes Act and should have been duly investigated and decided.

7. We may also refer at this stage to a preliminary objection taken by the respondents that no appeal on a point of compensation lies under section 7(a) of the Industrial Disputes (Appellate Tribunal) Act, 1950. Our observations made above would make it clear that more than one substantial question of law is involved and therefore an appeal under section 7(a) of the said Act shall lie.

8. It seems clear to us that under section 33 of the Industrial Disputes Act (XIV of 1947) as it stood before amendment no employer could alter to the prejudice of the workmen concerned in such dispute the conditions of service applicable to them immediately before the commencement of such proceedings during the pendency of any proceedings before a Tribunal in respect of any industrial dispute. It is conceded that an industrial dispute was pending before the Industrial Tribunal, Madurai on 10th March 1950 when this new system of work-load was introduced. But it is ingeniously argued that it was not to the prejudice of the workmen as in the long run it would have been beneficial to them. We are, however, of opinion that adding to the work-load could not but be prejudicial to the workmen as it among other things resulted in putting 539 men out of work. This was a step taken by the management in clear contravention of section 33 for which we are told that their prosecution was ordered but was stayed under the terms of the Delhi Agreement. The management justifies the introduction of the work-loads as prescribed by the Standardization Committee's Report and the report of the Wage Board in its notice dated 23rd February 1950 (M II) as it was based on the communications received from the Inspector of Factories and Labour Officer (M IV and IVa). We have no hesitation in saying that all that, even if it can be treated as a direction, cannot convert an act which was illegal into a legal one. Thus the step taken by the management on 10-3-1950 was illegal and the workers in the ring-frame department were fully justified in refusing to work on those terms. The retrenchment of 539 workers which followed this illegal act of adding to work-loads was equally illegal. It must be noticed that the Commissioner of Labour properly pointed out to the management on 25-2-1950 that the action proposed would be in contravention of section 33 but the management paid no heed to it and had its own way. It is clear to us beyond a shadow of doubt that the lock-out as ordered by the management was illegal. It follows that the strike was not illegal as section 24, clause (3) of the Industrial Disputes Act lays down that "a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal." The management may have acted in perfect good faith but they did contravene section 33 of the Industrial Disputes Act. It is not necessary that an adjudication about the same dispute should be pending. It is sufficient if any dispute between the parties is pending adjudication. The learned Tribunal has also erred in holding that the work-load was not a condition of service as it was not mentioned in Standing Orders. It can only be said that the Standing Orders are defective and do not comply with the requirements of the Standing Orders Act (XX of 1946). It will thus appear that the termination of the services of all the workers including 539 workers who became a prey to that illegal act was illegal and therefore all of them are entitled to compensation.

9. It next falls to us to determine the quantum of compensation. In fixing that several conditions shall have

to be taken into account. As a result of that illegal lock-out the workmen have been out of work from 10th March 1950 to 28th May 1950 a period of 79 days and had to face all the troubles consequent on unemployment. On the other hand there is evidence to show that there were progressive cuts in supply of electricity and the management could not continue in full strength even if they so desired. We understand from a statement on behalf of the management that the workmen could not have work for more than 30 days out of the said period. We think this provides a reasonable and satisfactory basis for the award of compensation. It would mean the award of 30/79 share out of wages that could have been earned. We would therefore allow the appeal in this way that we order that the workmen shall be paid wages (including dearness allowances) for 30 days as compensation for their being kept out of work till 28th May 1950. This shall be paid as soon as this award becomes enforceable. As the appeal has been partly allowed we order the parties to bear their own costs.

K. P. LAKSHMANA RAO,
President.

G. P. MATHUR,
Member.

Appeal (Bom) No. 124 of 1951

The Mysore Vegetable Oil Products Ltd.,
Bangalore City. Appellants.

versus

The Mysore Vegetable Oil Products Ltd.,
Labour Association, Bangalore City. Respondents.

In the matter of an appeal against the award of the Industrial Tribunal (Sri A. R. Nagesvara Iyer, Chairman, and Sri T. Singaravelu Mudaliar, Member), Bangalore in No. A.C.1 of 1950-51, published in the Mysore Gazette dated March 29, 1951.

The 6th day of September 1951

Present :

Mr. K. P. Lakshmana Rao, President.

Mr. G. P. Mathur, Member.

Apperances :

For the Appellants :

Mr. S. D. Ganesha Rao, Advocate, and Mr. M. Matthan, General Manager, Mysore Vegetable Oil Products Ltd.

For the Respondents :

Mr. G. V. Ramachar, Advocate, Mr. J. Lingaiah, President, M.V.O.P. Labour Association, Mr. K. H. Kulkarni, Secretary, I.N.T.U.C., Mysore State Branch.

State.—Mysore.

Industry.—Miscellaneous (Oil).

DECISION

This is an appeal against the award of the Industrial Tribunal, Bangalore, dated the 5th March 1951. On 27th July 1949 the President of the Mysore Vegetable Oil Products Labour Association gave a notice to the General Manager of the Veg table Oil Products Ltd., Bangalore, and made the following demands :—

- (1) All workers should be paid a uniform dearness allowance of Rs. 32/8/- per mensem each.
- (2) The above scales should come into effect from 1st July 1949.

There was a third demand for bonus but it is not the subject matter of this appeal.

2. The Industrial Disputes Act, 1947, was not applicable to Mysore State on that date but subsequently by a notification dated 27th May 1950 issued and published in the Mysore Gazette dated 29th May 1950 the Government of Mysore ordered that the Industrial Disputes (Appellate Tribunal) Act, 1950, be published in the Mysore Gazette for general information and the latter Act made the amended Industrial Disputes Act, 1947, applicable to the whole of India except the State of Jammu and Kashmir. Acting on the provisions of section 10 sub-section (1) of the Industrial Disputes Act, 1947, His Highness the Maharaja of Mysore passed an order dated 30th May 1950 referring the said dispute for adjudication to the Industrial Tribunal. As already stated the Tribunal gave its award on the 5th March 1951 and according to that award the dearness allowance was raised to a flat rate of Rs. 30/-

for each workman as against the prevailing rates of dearness allowance, viz.,

those drawing up to Rs. 25/- per month—dearness allowance Rs. 25/- per month,

those drawing above Rs. 25/- per month and up to Rs. 50/- per month—dearness allowance Rs. 27/8/- per month, and

those drawing above Rs. 50/- per month—dearness allowance Rs. 30/- per month

and ordered that this should be paid with effect from 1st August 1949.

3. In this appeal on behalf of the management it is urged that no case was made out for an increase in the dearness allowance and in any case it should not have been given effect to from 1st August 1949. The learned Counsel for the appellants who has put his case with great ability and frankness has stated that the appellants have all along been paying dearness allowance at higher rates and they have been enhanced from time to time on their own initiative with reference to the prevailing conditions without representation from the employees and that although an increase was given from 1st April 1949 the employees again came up with a fresh demand on 27th July 1949 which was not justified. It has also been pointed out that during the last few years new companies have sprung up in Mysore State in the same line of business and the appellant company is meeting keen competition from them. It is argued that since those companies are paying dearness allowance at a much lower rate the order of the lower Tribunal would put the appellants in a very disadvantageous position. On behalf of the respondents it was urged that the factory has made huge profits, that the cost of living has shot up very high and that there is such a disparity between the living wage and the wages paid to them that they are entitled to have the rise in the cost of living index fully neutralised. On this basis they claimed increase in dearness allowance at the flat rate of Rs. 32/8/-. After hearing the learned Counsel for the parties we feel it rather difficult to come to a definite finding as to what should be determined as living wage in the State of Mysore. There are no sufficient materials for that purpose on the record. But however it may be the fact remains that the appellants have been quite generous to the employees and have been paying more dearness allowance than some of the Government factories and most of the other factories in the State. Here too there is a difficulty that there is nothing on the record to fix up as to which can be called a comparable unit. In these circumstances the only material to go upon is that the basic wages are certainly much below the living wage by all standards and that if there is a possibility an effort must be made to further neutralize the disparity between the basic wage and the living wage. The learned Tribunal has come to the conclusion that the appellants are in a position to pay enhanced rates of dearness allowance. We think therefore that some increase in the dearness allowance was necessarily called for. The other objection of the appellants is that the dearness allowance should not be at a flat rate but on progressive grade as heretofore. The learned Tribunal has an increase of Rs. 5/- flat rate the result of which would be that there would be a great deal of discrimination between one set of workmen and the other. While 69 workmen drawing up to Rs. 25/- will be getting an increase of Rs. 5/- per month the other 31 drawing up to Rs. 50/- per mensem would get only Rs. 2/8/- per mensem and worst of it is that those drawing above Rs. 50/- per mensem would get no increase at all. In our opinion this system is unjustifiable and should not be adopted. We would therefore put the dearness allowance on a graded scale and would lay down that those drawing up to Rs. 25/- per mensem will get Rs. 27/8/- dearness allowance instead of Rs. 25/-; those drawing above Rs. 25/- and up to Rs. 50/- shall get Rs. 30/- dearness allowance instead of Rs. 27/8/- and those drawing above Rs. 50/- shall get Rs. 32/8/- per mensem dearness instead of Rs. 30/-. It is true that the persons in the last category have not filed an appeal against the award which has fixed their dearness allowance at Rs. 30/- per mensem. But the learned Counsel for the appellant has signified his consent to the raising of their dearness allowance.

4. As for the date from which the dearness allowance should be awarded the learned Tribunal has fixed it as 1st August 1949. This appears to be rather unjustified as an increase was given only on the 1st April 1949 and within four months a fresh demand was made. The workmen should have at least waited for a year and should have seen how that worked. It also appears from a statement about the rise in the cost of living index from July 1949 to April 1950 that there was no appreciable rise till April 1950. For that reason too we think that 1st April

1950 should be the date from which the increase in dearness allowance should be allowed, and we order accordingly.

5. There is only one other point to be mentioned. The learned Counsel for the appellants has pointed out that the lower Tribunal has laid it down that the dearness allowance shall be at Rs. 30/- per month of 26 working days. He says that this is likely to lead to complications as in a month which has got 27 working days, more shall have to be paid while if the working days are less than 26 there would be a downward fluctuation in the rate of dearness allowance. We think there is a good deal of force in this observation and we would therefore lay down that the dearness allowance shall be paid at Rs. 27/8/-, Rs. 30/- and Rs. 32/8/- per month in accordance with the details given above.

6. The appeal is accordingly partly allowed and the award of the lower Tribunal is modified. We make no order as to costs.

K. P. LAKSHMANA RAO,
President.
G. P. MATHUR,
Member.

Appeal (Bom) No. 183 of 1951

Messrs. Harrisons & Crosfield Ltd., Saw Mills Department, Quilon, Travancore-Cochin.

Appellants.

versus

The Quilon Saw Mills Workers' Union, Quilon, Travancore-Cochin.

Respondents.

In the matter of an appeal against the order of the Industrial Tribunal (Sri C. S. Lakshmana Pillai), Trivandrum, in Industrial Dispute No. 5 of 1951, dated the 19th June 1951.

The 3rd day of September 1951

Present :

Mr. K. P. Lakshmana Rao, President.
Mr. G. P. Mathur, Member.

Appearances :

For the Appellants :

Sri M. S. Menon, M.A., Bar-at-Law, and Sri G. B. Pai, M.A., B.L., instructed by Sri G. S. Menon, Labour Adviser, M/S Harrisons & Crosfield Ltd.

For the Respondents :

Sri P. Balagangadhara Menon, B.Sc., B.L.

State.—Travancore-Cochin.

Industry.—Miscellaneous.

DECISION

The appellant in this case filed a petition before the Industrial Tribunal, Trivandrum, seeking permission to temporarily lay off 55 workers from the Saw Mills Department of the company. It was objected to on behalf of the Quilon Saw Mills Workers' Union but permission was granted and the conditions laid down were—

- (1) In consideration of the involuntary unemployment consequent on the temporary lay-off every worker thereby affected should be paid for the period of such unemployment financial relief at the rate of Fifteen Rupees per mensem of thirty days in lieu of his wage and dearness allowance which they have to lose in the absence of regular work.
- (2) The temporary lay off permitted does not involve the separation of relationship between the company and these 55 workers as employer and employees. These workers will therefore be entitled to get all other privileges incidental to the above relationship as employer and employees.

2. It is urged in this appeal that this order for payment of unemployment relief is without precedent and against custom and that the closing down of the night shift being entirely beyond the control of the appellant they were not liable to pay any compensation under their Standing Orders.

3. At the hearing of the appeal a preliminary objection was taken that the appeal was incompetent under section 7(a) of the Industrial Disputes (Appellate Tribunal) Act, 1950 as no substantial question of law was involved. We have heard the learned Counsel for the parties and in

our opinion as the Industrial Tribunal disregarded the clear provisions of the Standing Order as a question of law is involved. It is also a question of law whether in granting permission under section 33 of the Industrial Disputes Act the Industrial Tribunal could attach any conditions to it. We therefore hold that the appeal is maintainable. On the merits the appellants have got a very good case because under Standing Order No. 12 it is clearly laid down that where any laying off is effected in consequence of any trade reason the workers will not be entitled to any compensation except compensation in lieu of notice, if any notice is necessary. The question whether this trade reason was beyond the control of the appellants or not does not arise on the correct interpretation of the Standing Order. In the circumstances the order awarding compensation to the workmen laid off and more so the order saying that they will be entitled to all other privileges incidental to relationship as employer and employees was not justified. The appeal is therefore allowed but make no order as to costs.

4. There is also an application under section 14 of the Industrial Disputes (Appellate Tribunal) Act for stay of the implementation of the award but that is not pressed. It will therefore be struck off.

K. P. LAKSHMANA RAO,
President.

G. P. MATHUR,
Member

Application (Misc) (Bom) No. 196 of 1951

The workmen of the A.D. Cotton Mills Ltd., represented by N. Sreekantan Nair, President, Quilon Textile Workers' Union.

Applicant.

versus

The A.D. Cotton Mills Ltd., represented by their Managing Agent.

Opponents.

Application (Misc) (Bom) No. 197 of 1951

The workmen of A.D. Cotton Mills, represented by N. Sreekantan Nair, President, Quilon Textile Workers' Union.

Applicants.

versus

The A.D. Cotton Mills Ltd., Quilon.

Opponents.

In the matter of applications under section 23 of the Industrial Disputes (Appellate Tribunal) Act, 1950.

The 4th day of September 1951

Present :

Mr. K. P. LAKSHMANA RAO, President.

Mr. G. P. Mathur, Member.

Appearances :

For the Applicants :

Sri P. Balagangadhara Menon, Advocate.

For the Opponents :

Sri T. K. Joseph, Director, A.D. Cotton Mills, Quilon.

State.—Travancore-Cochin.

Industry.—Textile (Cotton).

ORDER

The applications are not pressed. They will be struck off.

K. P. LAKSHMANA RAO,
President.

G. P. MATHUR,
Member.

Appeal (Bom) No. 95 of 1951

The Ahmedabad Mfg. & Calico Ptg. Co. Ltd., (Calico Mills), Ahmedabad.

Appellants.

versus

- (1) The Textile Labour Association, Ahmedabad.
- (2) The Ahmedabad Millowners' Association, Ahmedabad.
- (3) Shri Ambica Mills Ltd., Nos. 1 and 2, Ahmedabad.
- (4) Raipur Mfg. Co. Ltd., Ahmedabad.
- (5) Vijay Mills Co. Ltd., Ahmedabad.

Respondents.

In the matter of an appeal against the order of the Industrial Court (Full Bench) Bombay, in Revision Application (IC) No. 7 of 1950, dated the 20th March 1951.

The 26th day of September 1951

Present :

Mr. K. P. Lakshmana Rao, President.

Mr. G. P. Mathur, Member.

Appearances :

For the Appellants :

Shri R. J. Kolah with Shri Kher instructed by Messrs. Payne & Co., Solicitors.

For the Respondents :

- (1) Shri Shantilal H. Shah with Shri S. P. Dave.
- (2) Shri B. Narayanaswamy, Advocate, instructed by Shri H. G. Acharya.
- (3) No appearance.
- (4) No appearance.
- (5) No appearance.

State.—Bombay.

Industry.—Textile (Cotton).

DECISION

This is an appeal by the Ahmedabad Mfg. and Calico Ptg. Co. Ltd. (Calico Mills), Ahmedabad, against an order of the Full Bench of the Industrial Court, Bombay, consisting of Messrs. K. C. Sen, D. G. Kamerkar and P. S. Bakhe, by which they, in exercise of their revisional powers, set aside the order of the Wage Board and disallowed the change sought to be made by the appellants. It appears that the appellants gave a notice of change in the year 1947 under section 28(1) of the Old Act which is the same as section 42(1) of the present Industrial Relations Act (Act XI of 1947). The change was with respect to Item 4, Schedule II, i.e., Rationalisation or other efficiency systems of work; as they wanted to introduce working of four looms in the weaving department and four sides in the Ring Frame Department of their mills. The usual conciliation proceedings followed, but as they failed, the Government of Bombay acting under section 86C(1) of the Bombay Industrial Relations Act, by an order notified in the Official Gazette, referred the matter in dispute to the Wage Board. In this order it was specified under section 86C(2) that the parties to the dispute were the appellants and the Textile Labour Association. The appellants arrived at an agreement with the Textile Labour Association and filed a petition requesting the Wage Board to make an order in the terms of the settlement. The Wage Board accordingly, acting under section 115A passed an award in the terms of the agreement on the 20th of March 1950. The Ahmedabad Millowners' Association, Ahmedabad, long after that, i.e., on the 23rd of August 1950 made an application purporting to be under section 86(1) of the Bombay Industrial Relations Act for a revision of the decision of the Wage Board dated the 20th March 1950. As already noted the Full Bench of the Industrial Court has set aside that order. We have heard the learned Counsel for the parties and in our opinion this appeal can be disposed of on the short point whether the Industrial Court had any jurisdiction to entertain and hear the revision.

2. It is not disputed that 86(I) is not applicable as it only relates to a review of an order or decision by the Wage Board itself; but somehow this was not noticed by the Industrial Court and they proceeded on the assumption that it was an application for revision and they had jurisdiction to try it. The learned Counsel for the respondent now admits that the application could have only been made, if at all, under section 86J of the said Act. Section 86J runs as follows :—

"The Industrial Court shall have superintendence over all Wage Boards and may—

- (a) call for returns from such Boards;
- (b) make and issue general rules, and lay down forms for regulating the practice and procedure of such Boards in matters not expressly provided for by or under this Act, and in particular, for securing expeditious disposal of cases;
- (c) lay down the forms in which books, entries and accounts shall be kept by officers of Wage Boards;
- (d) settle fees for processes issued by Wage Boards."

It is argued by Shri Narayanswamy that this power of superintendence includes the power of hearing appeals and revisions. We, however, do not agree. We do not think it is necessary to refer to the sections of the Government of India Act, 1935 and the Articles of the Constitution of India under which the High Court has been

giving various powers because it has no application to the case of the Industrial Court. We have to judge the section as it stands and we cannot by any stretch of language say that it confers powers of revision on the Industrial Court. They have got power to call for returns from the said Boards under that section and not to call for the records which is the first preliminary for hearing a revision. We are convinced that the Industrial Court had no jurisdiction to entertain and hear a revision from the decision of the Wage Board and that they acted illegally in setting aside the decision of the Wage Board. We therefore allow this appeal, set aside the order of the Full Bench of the Industrial Court and restore that of the Wage Board dated 20th March 1950. We make no order as to costs.

K. P. LAKSHMANA RAO,
President.

G. P. MATHUR,
Member

Appeal (Bom) No. 140 of 1951

The Anglo-Iranian Oil Co. (India) Ltd.,
Bombay Branch.

Appellants.

versus

1. Petroleum Workmen's Union, Shramajeevi Avas, 34, Sewree Cross Road, Bombay 15.

2. The workmen employed under the
Appellant Company.

Respondents.

In the matter of an appeal against the award of the Industrial Tribunal (Shri K. C. Sen), Bombay, in Ref. (IT) No. 33 of 1951, dated the 23rd April 1951.

The 19th day of October 1951

Present :

Shri K. P. Lakshmana Rao, President.

Shri F. Jeejeebhoy, Member.

Appearances :

For the Appellants :

Mr. N. A. Palkhiwalla instructed by Messrs. Little & Co., Solicitors.

For the Respondents :

- (1) Shri Rajni Patel, Bar-at-Law with Mr. G. Sundaram, President of the Union.
- (2) Mr. Oscar N. Brown, Bar-at-Law representing 74 workers.

State.—Bombay.

Industry.—Minerals and Metals (Oil).

DECISION

By a notification of the Government of Bombay dated 28th February 1951 the question of the bonus payable to the workmen of the Anglo-Iranian Oil Company (India) Ltd., Bombay, was referred to the Industrial Tribunal, Bombay. The total number of employees therein involved numbered 75. 74 of such employees intimated in writing that they had no existing dispute with the company at the date of the reference. They had resigned from the Petroleum Workmen's Union, and it was said that the 75th employee, Mr. Joseph, had not paid his subscriptions to the Union and had ceased to be a member thereof. The said Union claimed the right to pursue the reference to which objection was taken by the Company on the ground that no member of the Company's staff could properly belong to the Petroleum Workmen's Union as the Company did not engage in Greater Bombay in the business of storage, distribution or sale of petroleum or petroleum products. The matter was investigated by the Industrial Tribunal which held "that the Company had not satisfactorily established that it is not the kind of Company whose employees the Union would be entitled to enrol as its members under the terms of its constitution." The employers have appealed to us against that decision and the Union has been represented by Counsel to oppose the appeal.

2. The short question involved is this : Whether the appellant Company has been engaged in Greater Bombay in the storage, distribution or sale of petroleum and petroleum products, so that its employees could properly be members of the Union in question. The Company has denied all along that it has been carrying on such business in Bombay. According to its written statement "It is not correct to say that the Company concerns itself in

Bombay with the sale of petroleum and petroleum products. The Company's business in India consists wholly of acting as Agents for the recruitment of personnel for various authorities, Companies and bodies in the Persian Gulf; acting as Agents for the purchase of stores and materials for such authorities, bodies and Companies; acting as Ship's Agents for various shipping companies and authorities and bodies, such business consisting exclusively of supervision of marine repairs, selection of crews and other Ships Agency work".

3. The Tribunal below has first referred to the memorandum of association of the company by which power has been given to it to carry on the business of the sale and/or storage and distribution of petroleum and other oil products, and the Tribunal takes the view that those "objects" *prima facie* show that the Company is one whose employees the Union would be entitled to enrol as members. We are, however, of the view that no *prima facie* case on this point could arise unless and until it had been first established that the Company had sometime in the past carried on in Bombay the particular business of the storage, distribution and sale of petroleum and petroleum products. We cannot possibly presume that a Company automatically engages in every one of the 'objects' set out in its memorandum.

4. We would have thought that if the Company was in fact carrying on the business of storing, distributing and selling petroleum and petroleum products in Bombay, such fact would have been susceptible of easy proof. It is however common ground that the Company does not have any storage facilities, nor any distributing personnel nor any arrangements for the sale of petroleum or petroleum products. If the Company was storing, distributing or selling petroleum and products in Bombay through others, then such fact would have been evident from the books and correspondence of the Company, to which the clerks must have had daily access. But no such evidence is forthcoming, and in fact we are satisfied that it does not exist. The Company was not required to produce any books nor was any oral evidence led on the point by the employees.

5. The Tribunal below has founded its decision mainly on two factors : (1) the Company's monthly statements of receipts and payments for 1950 and (2) a letter written by Mr. Wrightson as the manager of the Company on 7th November 1947 to the Controller of Exchange, Exchange Control Department, Reserve Bank of India at Bombay. We shall now deal with these two items.

6. The statement of receipts and payments for the months of November 1950 contains the following three items :

Receipts.

Rs. a. p.

Cash on hand and with Bankers ..	52,79,996	15	7
Funds from Burmah-Shell, as per Chartered Bank of India, Australia and China advices attached ..	70,75,000	0	0
Oil sales proceeds from Bharat Line ..	1,80,687	11	6

As regards the item of Rs. 70,75,000, Mr. Sinclair in his evidence states that the Company received this amount for financing their operations in Bombay, namely, recruitment of personnel, purchase of stores for export to Iran, etc., and bills of lading were produced showing that this amount represented the value of the oil consigned by the Anglo-Iranian Oil Company, Iran, described as consignors, direct to consignees in India like the Burmah-Shell Oil Storage and Distributing Company of India Ltd., who paid the value thereof to the Company before us which received it on behalf of the consignors. From the presence of this item in the books it is said that the Company before us had been carrying on business of distribution of petroleum and its products in Bombay. It has however been established from the documents which products were supplied by the Anglo-Iranian Oil Company, Iran direct to consignees or purchasers, and that the Company before us were merely agents of that Company for the purpose of collecting the value of such petroleum and petroleum products. As regards the item of Rs. 1,80,687/11/6 the Company produced before the learned Adjudicator a letter dated 3rd March 1949 from the Anglo-Iranian Oil Company in London relating to the latter's contract with the Bharat Line Ltd. With that letter was forwarded a copy of the rough draft of the contract covering bunker requirements of the Bharat Line Ltd., "at our range of ports during 1949". The letter goes on to say : "Our general bunker sales agents Messrs Wm Cory & Son Limited will prepare and render such invoices to the Bharat Line Ltd., upon receipt of advice from us of bunker deliveries, and a copy of each of these invoices will be sent to you. We shall be glad if you will kindly

be prepared to collect payment on our behalf and at the same time keep us informed of any accounts which may be outstanding for an unreasonable period of time having in mind that payment is due upon presentation of invoice." Now if this letter is genuine, and we have no reason to think otherwise, there cannot be any doubt that the Company before us had been acting merely as the agent of the Anglo-Iranian Oil Co., Ltd., London, for the collection of monies due from the Bharat Line in respect of "bunker requirements at our range of ports during 1949", and this fact is supported by the original correspondence of the Bharat Line Ltd., which sent its cheques from time to time to the Company in pursuance of its contract with the Anglo-Iranian Oil Co., Ltd., London. The ports referred to are—

AALBORG	L'AVERA	U. K. PORTS*
AARHUS	LA PALLICE	Main Installations
ABADAN	LAS PALMAS	ARDROSSAN
ADEN	MADRAS	AVONMOUTH
ALEXANDRIA	MARSEILLES	CLYDE
ALIGIORS	MASSOWA	Old Kilpatrick
AMSTERDAM	MELBOURNE	FALMOUTH
ANTWERP	MOMBASA	GRANGEMOUTH
AUCKLAND	NAPLES	HULL
BANDAR MASHUR	ORAN	Saltend
BASRA	OSLO	LIVERPOOL
BEIRA	PAUILLAC	Dingle Bank
BERGEN	PETIT COURONNE	MANCHESTER
BEYROUTH	(Rouen)	SHIP CANAL
BOMBAY	PORT ELIZABATH	Barton, Eccles,
BORDEAUX	PORT SAID	Stanlow
CALCUTTA	PORT SUDAN	SOUTHAMPTON
CAPE TOWN	RANGOON	Hamble
COCHIN	ROTTERDAM	SWANSEA
COLOMBO	ST. NAZARE	THAMES
COPENHAGEN	ST. VINCENT, C.V. I	Thames Haven
DAKAR	SETE	Purfleet, Shellhaven
DJIBOUTI	STAVANGER	Isle of Grain (Medway)
DONGES	STOCKHOLM	TYNE
DURBAN	SUEZ	Jarrow
FREDERICIA	SYDNEY N.S.W.	Sub-Installations
FREMENTILE	TRIESTE	(On Enquiry)
GENOA	TROMSOE	
COTHENBURG	TRONDHJEM	
HAIFA	U. K. PORTS*	
HAMBURG	VENICE	
HAVRE	VIZAGAPATAM	
HELSINGBORG	WALVIS BAY	
KARACHI	WELLINGTON	
KRISTIANSAND		

7. As to the funds received from Burmah-Shell amounting to Rs. 70,75,000, there is further evidence to show that it was money collected on behalf of the Company in Iran. On 7th November 1947 Mr. Wrightson, who had been the Marine Superintendent of the Company but was temporarily the manager, addressed a letter to the Controller of Exchange, Reserve Bank of India at Bombay, to the terms of which we shall hereafter refer. The learned Adjudicator below has relied upon this letter as strong evidence indicating that the Company before us had been carrying on the business of storage, distribution and sale of oil and oil products, but we take a different view of its contents and effect. That letter reads as follows :

7th November 1947.

"The Controller of Exchange,
Exchange Control Dept.,
Reserve Bank of India,
Bombay.

Dear Sirs,

EXCHANGE CONTROL—EXPORTS TO IRAN

With reference to our letter G/19055, dated 11th August, a copy of which was forwarded to you by the Chartered Bank of India, Australia and China Ltd., Bombay, with their letter No. 4510B, dated 25th idem, we have the following comments to make.

Our position as Exporters is as outlined in para. 5 of your Notice of Exporters No. 1. We import Petroleum products viz., Petrol, Kerosene, Furnace Oil and Diesel Oil from Iran into India on consignment account through our distributors Messrs. Burmah-Shell Oil Storage & Distributing Co. of India Ltd., the sale proceeds of which are received by us. The value of our exports of Hardware, Ropes, Cotton Waste, Aluminium Ore, Barytes, Timber, Textiles, etc., necessary for the proper conduct of oil production and the use of our staff is far below

the value of oils imported as will be seen from the following data :

Period	Proceeds of Oil Imports received From Burma-Shell	Value of Exports to Iran	
		Rs. A. P.	Rs. A. P.
1946 .. ..	.. 1,77,57,000 0 0	45,00,000 0 0	
1947—			
January .. ..	.. 14,19,000 0 0	1,90,621 4 0	
February .. ..	.. 12,20,000 0 0	8,75,249 7 0	
March .. ..	.. 19,75,000 0 0	7,17,209 10 0	
April .. ..	.. 9,35,000 0 0	4,00,945 12 0	
May .. ..	.. 16,09,000 0 0	6,16,801 0 0	
June .. ..	.. 15,05,000 0 0	11,30,014 6 0	
July .. ..	.. 9,50,000 0 0	2,58,381 13 0	
To 18th Aug. .. ..	.. 1,25,000 0 0	7,44,122 4 0	
		97,58,000 0 0	47,93,845 8 6
From 19th August .. ..	.. 3,75,000 0 0	1,14,418 2 0	
September .. ..	.. 10,00,000 0 0	8,65,582 0 0	
October .. ..	.. 9,00,000 0 0	60,784 2 0	
		22,75,000 0 0	8,40,734 13 0

In view of the foregoing we shall be grateful if you will confirm that it is unnecessary for us to bring into India money emanating from Iran to cover the value of our exports to that country.

We have been supplying the needs of our Iranian Oil fields from India for several years and the volume of business fully justifies an exception being made to the general rule. We therefore, request you for a special licence to declare our exports to Iran on form G.R.3 and to exempt us from bringing into India the value of such exports.

We are prepared to render you a proper periodical account of the funds received from the sale of imports and the value of exports in a manner approved by you.

Yours faithfully,
for Anglo-Iranian Oil Co. (India) Ltd.
Bombay Branch
Sd/- N. WRIGHTSON,
Manager."

8. The learned Adjudicator states that collecting other's monies is obviously work of a different nature from recruitment of personnel, purchase of stores and materials and acting as ship's agents : "This omission from the Company's statement concerning the nature of its business makes it not unlikely that there are other omissions.

* * *. The Company must be presumed to have advisedly used the language in which that letter is couched. It is true that the Comapny has no licence from the Inspector of Explosives such as would presumably be required for the storage of petroleum or petroleum products. But storage is not essential for doing the business of importing or distributing such commodities. The Company's letter to the Controller of Exchange in the circumstances of this case, is sufficient, in my opinion, to raise the presumption that the stand taken by the Union is correct and I am unable to find that that presumption has been sufficiently rebutted".

9. We regret we are unable to uphold that conclusion. If that letter is examined in the light of the attendant circumstances and the implications properly evaluated, we feel that a different result must follow. Now, the letter is addressed to the Controller of Exchange, and the very object of that letter is to enable the Company before us to utilise the monies in its hands belonging to the Company in Iran for the purpose of financing exports and other services. It seems to have escaped the learned Adjudicator that such a letter would not have been necessary and would not have been written unless the money which the firm in Bombay held belonged to the Anglo-Iranian Oil Company in Iran. If the money or any part of it belonged to the Company before us, then it was their own property, and no question could arise of asking for the permission of the Reserve Bank to utilise it for exports as stated in the letter. Had this aspect of that letter been considered, much of the resulting confusion would have been avoided. It is true that the letter is a jumbled expression of the prevailing position, but it was written by a Marine Superintendent acting temporarily as Manager, and when we consider the undoubtedly object for which the letter was written, we find little difficulty in accenting the explanation given by Mr. Wrightson in his evidence as to why such words as "We import" and "Our" had been used in that letter. Mr. Wrightson was examined before the learned Adjudicator, and he explained that in November 1947 he wrote the letter Ex U.3 which he says was rather badly worded; he added "Where we have used the words "we import", we imply

our principals, Anglo-Iranian Oil Co., Abadan, Iran. The word "our" should also be similarly interpreted. I produce certain specimen bills of lading showing the consignor and the consignee. We have no correspondence regarding consignments. Ex.U.3 was written by us in order to obviate two-way remittance. We received permission from the Reserve Bank to act accordingly." It is significant that there was no cross-examination of this witness. It is said that the Company did not mention in its statement that it also collected monies on behalf of others, but even if there was such an omission the obvious facts cannot be ignored. The Company had no licence to import or store, distribute or sell petroleum or petroleum products nor was it suggested that it had any establishment for such business.

10. Subsequent to the award of the Industrial Tribunal the Company has secured a certificate from their chartered accountants and another certificate from the Deputy Petroleum Officer, Under Secretary to the Government of India, in support of the plea that this Company did no business of storage, distribution or sale of oil and oil products; but as these have been filed after the decision had been given we do not take them into consideration.

11. The learned Adjudicator came to the negative conclusion "that the Company had not satisfactorily established that it is not the kind of company whose employees the Union will be entitled to enrol as its members under the terms of its constitution". But on the evidence on record it is not possible to hold that the Company had been carrying on business in Bombay of the storage, distribution and sale of petroleum or petroleum products, and the Union before us is therefore not a Union to which the 75 employees, (clerks and subordinate staff and no manual workers) could normally belong. We hold that the Union is not entitled to pursue the reference or to represent the one employee, Mr. Joseph, who has not appeared before us and whose whereabouts the Union says it does not know.

12. Mr. Patel contended that no appeal lay and that in any event we should not interfere with a decision on facts. We have found that the decision is opposed to the evidence on the record, and is based on presumption and inferences not warranted by the facts. This in itself would be a substantial question of law, and we must interfere in such circumstances.

13. The decision of the Tribunal below is therefore set aside and this appeal is allowed accordingly. No order as to costs.

K. P. LAKSHMANA RAO,
President.

F. JEEJEEBHoy,
Member.

Appeal (Bom.) No. 66 of 1951

The workmen employed under the Ahmedabad Manufacturing and Calico Printing Co. Ltd. (Chemical Division) Ahmedabad, C/o The Chemical Mazdoor Sabha, Ahmedabad.

Appellants

versus

The Ahmedabad Manufacturing and Calico Printing Co. Ltd. (Chemical Division) Ahmedabad.

Respondents

In the matter of an appeal against the award of the Industrial Tribunal at Ahmedabad (Shri P. D. Vyas) in Reference (ITA) No. 8 of 1950, dated the 22nd December 1950.

The 24th day of October 1951

Present :

Mr. F. Jeejeebhoy, Member.

On a reference under Section 9, sub-section (8) of the Industrial Disputes (Appellate Tribunal) Act, 1950.

Previously heard by—

Mr. K. P. Lakshmana Rao, President.

Mr. G. P. Mathur, Member.

Appearances :

For the Appellants :

Shri N. C. Shah, President, Chemical Mazdoor Sabha, Ahmedabad.

For the Respondents :

Shri R. J. Kolah instructed by Messrs. Payne & Co.,
Solicitors.

State.—Bombay.

Industry.—Chemicals and Dyes.

DECISION

This is an appeal against the award of the Industrial Tribunal at Ahmedabad in the case of the Ahmedabad Manufacturing and Calico Printing Company Ltd. (Chemical Division), Ahmedabad, and its employees in respect of bonus for the year 1948. This appeal was heard by the learned President of the Bombay Bench and our learned colleague Mr. Mathur, but as there was a difference of opinion between them, the appeal has been referred to me for decision under section 9, sub-section (8) of the Industrial Disputes (Appellate Tribunal) Act, 1950.

2. The Ahmedabad Manufacturing and Calico Printing Co. Ltd., carries on business in textiles as well as in chemicals. In the textile division it owns two concerns named the Calico and Jubilee Mills, and in the chemical division one concern producing caustic soda, bleach-liquor, liquid chlorine and other chemicals. The employees of the textile division have received bonus equivalent to 4½ months' wages for the year 1948 in pursuance of an award of the Industrial Court, Bombay, dated the 29th June 1949. The employees of the chemical division claim that the chemical division is an integral part of the textile mills and that the Company had made it a practice to treat the workmen of both divisions alike, and that therefore they are entitled to the same bonus as had been given by the award to the workmen of the textile division. The learned Adjudicator found that having regard to the facts and circumstances the claim of the workmen of the chemical division to the same bonus as had been given to the textile division was not sustainable, and he held that there was no available surplus of profit of the chemical division out of which any bonus could be paid. The learned Adjudicator therefore held that the workmen of the chemical division could not have any bonus for that year.

3. On appeal the learned President of the Bombay Bench has taken the view that the decision of the learned Adjudicator is correct. Our learned colleague Mr. Mathur, however, has taken a different view, and feels that the point which has been missed is that both the workers in the textile mills and the chemical division are under the same management, are worked out of the same capital, and as the balance sheet shows their accounts are not separate, and that in order to prove a loss in the chemical division the Company has been at pains to compose a separate balance sheet for the same; that although they may be separate departments of divisions doing separate kinds of business in the same company they are integral parts and cannot be treated differently. Mr. Mathur is of the opinion that the chemical division had been started for the benefit of the textile division and as it turns out a larger quantity of chemicals the products are sold to other customers. Mr. Mathur feels that it is in the interest of industrial peace and tranquility that the workers working under the very same Company should be equally treated for the purposes of bonus, and he takes the view that in the case of a Company as one unit it is not necessary that all the activities carried on by it must be co-related to each other, it is sufficient that they are branches of the same Company under one management, by which I assume he means a single Board of Directors. With the greatest respect to my learned colleague I am unable to agree with these views.

4. The cause of industrial peace and tranquility is ever present in the minds of all of us Members of this Tribunal; but we must first be clear in our minds as to what labour itself wants. The President of the Union categorically stated before me that it was not his case that if a Company carried on a number of separate activities out of its own capital and under a single direction, the profits and losses of all such separate units should be taken together for the purpose of ascertaining the surplus available for bonus, or that the surplus so available for bonus should be divided among the total number of employees of all the units. This is not surprising, for there is a natural disinclination on the part of those who have earned bonus in a unit to share that bonus with those of another unit who have not earned it or are not otherwise entitled to it. It is, however, labour's case that where a unit forms an integral part of another unit, the employees of both should receive the same bonus; and there is no dispute as to this principle.

5. The case of the workmen of the chemical division therefore depends on the answer to two questions only :

(1) Is the chemical division of the Company's activities an integral part of the textile division, in which case it would be entitled to the same bonus as has been given to the workmen of the textile division;

and

(2) if it is not so, then has any practice been established to justify the payment to the workmen of the chemical division of the same bonus as is paid to the workmen of the textile division. There is of course the residuary question whether the profits of the chemical division justify the payment of a bonus.

6. It is not denied that the manufacture of chemicals is a permissible activity under the articles of the Company, but it is not a normal activity of a cotton textile mill. The chemical concern was duly registered as a separate factory with a separate manager in the name of Caustic Soda and Chlorine Plant Factory, and it was located on a piece of land specially taken for the purpose quite separate from the textile mill premises, and its working hours are different from the working hours of the textile division. Whereas the emoluments of the workers of the textile division are governed by awards, the workmen of the chemical division are paid on a different scale, and the chemical concern works all the 24 hours without break. Only one-third of the caustic soda manufactured by the chemical division is purchased by the Company for its textiles and the cost thereof is debited in the usual way; similarly only one-thirtieth of the chlorine produced has been used in the textile mills; the rest of all the products of the chemical division are sold in the open market. The textile division is governed by the provisions of the Bombay Industrial Relations Act whereas the chemical division is governed by the Industrial Disputes Act. Separate accounts were kept in the two concerns, and they were separately managed, although without doubt under a single top direction. As these commercial activities are different limbs of the same concern a single balance sheet and profit and loss account has been prepared in respect of both the concerns, and it could not be expected to be otherwise. In effect the essential facts of this case are closely parallel to the facts in the Rohit Mills' case which came before this Bench for decision in Appeal No. 157 of 1950 (Bombay Government Gazette Part 1-L, dated 15th March 1951). In that decision we said—

"It appears clear to us that during the year 1948 the Rohit Machine Manufacturing Works, now known as the R. M. Engineering Works, was a separate concern which could not possibly be regarded as an integral part of the cotton textile mill. The manufacture of machinery and spare parts is not a normal activity of a cotton textile mill, and the Rohit Machine Manufacturing Works was admittedly manufacturing and supplying the machinery to outsiders as well. The cotton textile mill was treated like any other customer in respect of the goods supplied and the materials on record negative the idea of an integration between the cotton textile mill and the Rohit Machine Manufacturing Works. A separate account was opened for the concern in the books of the company from the beginning of 1948 (Ex. 21); separate bill books were maintained for orders received from the Rohit Mills and other concerns (Ex. 29-33); separate muster books were kept for the employees of the Machine Manufacturing Works and for those of the mechanic department of the mills. The mechanic department was an integral part of the cotton textile mill and bonus was paid to its employees in accordance with the award. On the facts the conclusion seems irresistible that the Rohit Machine Manufacturing Works was not an integral part of the cotton textile mills. The learned Judge of the Industrial Court does not appear to have given sufficient consideration to the essential requirement that in order to claim bonus under the award of 1948 the employees of this machine manufacturing concern had to establish that their concern was an integral part of the cotton textile mill. It is true that the profits of the machine manufacturing concern were included in the general profits of the limited liability Company, but so were the profits of the silk mills, and there is nothing surprising that it should be so when it is admitted that the Rohit Mills Ltd., as a Company is the parent concern operating three separate units."

It is difficult to see how it can be contended that this chemical factory supplying just one-third of the caustic soda and one-thirtieth of the chlorine required by the textile mills of the concern, and selling all its remaining caustic soda, chlorine and other products to outsiders, could be regarded as an integral part of the textile mills. In order that a unit may be held to be an integral part of another unit of the same concern, there must be nexus of integration, some essential dependence of the one on the other, or some unity of purpose and design, or some parallel or co-ordinate activity towards a common end without which the business of the one or the other could not be carried on to proper advantage; but no such evidence of integration is to be found in the case now before this Tribunal.

7. In appeal No. 1 of 1950 (*The Millowners' Association, Bombay v. The Rashtriya Mill Mazdoor Sangh, Bombay and the Kurla Girni Kamgar Sangh, Kurla*) a Full Bench of this Tribunal consisting of all the Members decided that before any question of bonus could arise the existence of an available surplus of profit must be established, and we also came to the conclusion that no scheme of allocation of bonus could be complete if the amount out of which the bonus had to be given was unrelated to the employees' effort. In this case the chemical factory as will appear later in this decision had no available surplus of profit out of which bonus could be paid, and it is difficult to conceive how the employees of the chemical factory can be said to have contributed to the profits of the textile mills in the circumstances stated when all but a small portion of its production was being sold to outsiders. It may be that payments by the textile division for the purchase of the products of the chemical factory required for the textile division were book items, but even so that could not negative the absence of integration between the Company's two separate units.

8. I agree with the view of the learned President of the Bombay Bench that the chemical concern cannot be regarded as an integral part of the textile concern, and therefore the claim for bonus on that basis must fail.

9. I must next examine the claim of the employees that they should receive this bonus because there had been a previous practice for the payment to the employees of the chemical division of the same scale of bonus as given to the textile workers of the Company. The evidence of such practice is limited to the one instance of bonus paid to certain employees for 1947. It must pause here to mention that it was first decided in 1947 to start this chemical factory and it actually commenced working on the 29th December 1947. Machinery of the value of Rs. 21 lakhs was purchased for the factory in 1947 and Rs. 13 lakhs in 1948. Some employees of the textile division had been placed on duty for the erection work of the chemical factory, and after the factory had been completed they were given the option to return to their work in the textile mills. Two of them went back, but the remaining 11 preferred to continue in the chemical factory. There is therefore no substance in the contention that the employees of these two units were interchangeable. It has however been contended on behalf of the employees that these employees of the textile mills who were engaged in the erection work of the chemical division had been given the same bonus for the year 1947 as had been given to the workmen of the textile mills. The reason why they received such bonus is however obvious. They belonged to the textile mills, and their services had been temporarily utilised for the erection of the chemical plant. The chemical concern itself could not have possibly given them any bonus for the year 1947 as the concern did not start work till 29th December 1947; and it would have been manifestly unfair to these 11 workmen if they had been deprived of the bonus which they would have ordinarily received as members of the staff of the textile mills. But the significant point in this context is the fact that only these 11 persons of the textile mills, and none of the others engaged upon the erection of the chemical factory, received this bonus. There is no other evidence or circumstance put forward by the employees in support of their plea for bonus based on alleged past practice, and it is quite impossible to conclude from these facts that there had been a practice to pay all the workmen of the chemical factory the same bonus as was given to the workers of the textile mills. Indeed the actual employees of the chemical division had not received any bonus. I am therefore unable to hold that any practice has been established by which the workmen of the chemical division as such were being paid the same bonus as the workmen of the textile division were receiving.

10. This leads me to the last point, namely, whether the chemical unit in 1948 earned sufficient profits to enable it

to pay bonus. A Full Bench of this Tribunal has enunciated the formula to be adopted for the ascertainment of the surplus available out of which bonus could be paid, and applying that formula to the figures here no such surplus is found to exist. At the Company has had a consolidated balance sheet and profit and loss account, it submitted to the Tribunal below a statement of profit and loss account of the chemical division prepared by the allocation of parts of certain items from the profit and loss account of the parent company. The figures have been checked by the auditors, and only 5 items were challenged by the employees. Item 3 refers to charges debited for power, steam and water consumed by the chemical factory during the year; it was alleged by the employees that this item was excessive; but the fact remains that the charges for electric power were calculated on the actual units shown by a separate meter and recorded in the log book of the Company. The steam and water consumed was worked out on the basis of a formula laid down by the manufacturers of the machinery of the chemical plant. The other four items challenged were—

	Rs.
Overhead charges	... ... ... 1,38,000
Depreciation	... ... ... 7,13,562
Interest on land, buildings, machinery and dead stock	... ... ... 1,06,391
Interest on working capital	... ... ... 33,526

The depreciation which has been charged is according to statute, and the Company has filed a statement of the summary of depreciation allowed by the income-tax department on each item of the Alkali Plant Block. According to the Full Bench decision the Company is entitled to such depreciation before any question of available surplus arises, and even if the other three items were fully allowed to the employees there would still be a deficit of some five lakhs of rupees. There is therefore no available surplus of profit from which any bonus could be paid by the chemical factory for the year 1948.

11. I therefore agree with the view of the learned President of the Bombay Bench on this appeal, and I see no reason to differ from the well considered decision of the Industrial Tribunal at Ahmedabad. The appeal is accordingly dismissed. No order as to costs.

F. JEEJEEBHoy,
Member.

Appeal (Bom.) No. 181 of 1951

Messrs. Jeewanlal (1929) Limited, a company incorporated under the Indian Companies Act, 1913, having their registered office at Calcutta and *inter alia* carrying on business in Bombay in the name of the Crown Aluminium Works.

Appellants.

versus

- (1) The Workmen (other than the clerical Staff) employed in the said Crown Aluminium Works, Bombay and represented by the National Engineering Workers' Union having its office at Veer Mahal, Parel outside the Fort of Bombay; and
- (2) The Workmen (other than the clerical staff) employed in the said Crown Aluminium Works, Bombay and not represented by the said National Engineering Workers' Union, if any.

Respondents.

In the matter of an appeal against the award of the Industrial Tribunal (Shri I. G. Thakore) Bombay, in Ref. (IT) No. 158 of 1950, published in the Bombay Government Gazette, dated the 24th May 1951.

The 26th day of October 1951

Present :

Mr. K. P. Lakshmana Rao, President.

Mr. F. Jeejeebhoy, Member.

Appearances :

For the Appellants :

Shri R. J. Kolah, Advocate, instructed by Shri H. N. Shroff of Messrs. Amarchand & Mangaldas, Solicitors.

For the Respondents :

(1) Shri G. L. Dudhia, Bar-at-Law, with Shri Manohar Bandivdekar, General Secretary, National Engineering Workers' Union, Bombay.

(2) No appearances.

State.—Bombay.

Industry.—Engineering.

DECISION

This is an appeal by the employers against the award of the Industrial Tribunal, Bombay, in the matter of the workmen of the Crown Aluminium Works, Bombay. It is not in dispute that this is one of the factories of Messrs. Jeewanlal (1929) Ltd., Bombay. The head office of the company is in Calcutta, and the company has factories at Bombay, Calcutta, Madras and certain other places both within and outside India. The adjudication related *inter alia* to questions of wages, bonus, leave and gratuity, and the appeal is concerned with these heads of dispute.

2. The company as its name implies commenced business in 1929 and presumably has prospered. It made large profits in the years 1947 and 1948, but the profits of 1949 have been greatly reduced, and it would appear that the profits of 1950 are also meagre. The company's raw materials consist of sheets of aluminium which they convert into articles of general use; the company contends, and it is not disputed, that the price of raw materials owing to world shortage and stock piling has reached such heights that the margin of profit has been greatly reduced.

3. The first demand was that the minimum basic wage should be Rs. 1/4/- per day and should be paid from the 1st January 1950; that proper grades and scales should be framed and adjustments made; and that the existing practice of granting increments every year should be continued. It is common ground that the dearness allowance paid by this company has been substantial; the minimum wage which was being paid was 12 annas a day, although only 12 persons out of a total of 471 were getting that amount; to this must be added the dearness allowance of Rs. 1/12/- per day paid to all those receiving less than Rs. 1/4/- as wage per day. The learned Adjudicator rightly observes that the time selected by the Union for pressing its demands is inopportune, and he has felt that he should not at the present time fix wage scales for this company as it might be unfair to the worker if fixed during these difficult times and unfair to the company if an unduly increased burden is cast upon it at the present juncture; he therefore did not fix any wage scales, but gave certain increases of basic wage which he considered suitable. In effect he directed that those who were getting 1/14/- annas or less should be given an increase of 4 annas in basic wages; also that those drawing up to Rs. 1/0/6 per day should be given Rs. 1/2/6 per day. We have considered these figures and have compared them with the basic wages prevailing in comparable concerns and we have also compared the total emoluments, and we see no reason to interfere with the decision of the learned Adjudicator on this point. Nor do we think that we would be justified in interfering with his direction for the grant of increment to the workmen, considering that since 1946 the company had been giving an increment of 2 annas to every worker in January of 1946, 1947, 1948 and 1949. It may be true that the company has no regular system of granting increments, and that the increments given in the past were voluntary and gratuitous, and we appreciate that increments are part of a wage scale which has not been fixed. We must, however, take into consideration the fact that because of the difficult financial circumstances of this unit a wage scale is not being fixed at the present time; if a wage scale had been fixed the increments might have been an integral part of it. Whatever the burden may be, it is fundamental that a workman must receive a fair basic salary, which together with the dearness allowance, would give him a total emolument reasonably comparable to the emoluments of other workmen in the industry. The learned Adjudicator has given effect to this principle as best as he could without fixing a wage scale, and the increments given must be deemed to be increases of the basic wage. Taking all factors into account we do not think that any interference is indicated in the minimum basic wage or the increment which the learned Adjudicator has given. There may be some small difference between the minimum basic wage or the total emoluments as given here and as prevailing in some comparable concerns, but we are not prepared to interfere merely because of that.

4. The next point raised by the employers relates to the retrospective effect given to these increases in basic wages. The demand was for higher wages and scales from 1st January 1950 and the dispute was referred for adjudication on 28th September 1950. The award was made on

the 28th April 1951, and on the materials before him the learned Adjudicator considered that the increases should be given effect from 1st November 1950 in respect of those getting 1/14/- annas or less; in respect of others the date should be 1st November 1950 for those who had completed at least 1½ years' service, and 1st January 1951 for those with shorter service. The Adjudicator gave one or two other directions of similar effect and directed payment of the difference payable under the award within one month from the date on which the award became enforceable. It was contended on behalf of the employers that under the Industrial Disputes Act it was incompetent to make an award of increase of basic wages with retrospective effect as by so doing the operation of the award became extended beyond the period of one year prescribed in sub-section 3 of section 19 of the Act. Proviso 2 to sub-section (3) however empowers the appropriate Government, before the expiry of that period, to extend the period of operation by any period not exceeding one year at a time as it thinks fit so, however, that the total period of operation of any award does not exceed three years from the date on which it came into operation. The distinction between operation and enforcement of the award is recognised in the Act, and under sub-section (3) of Section 17A, subject to the provisions of sub-section (1) which fixes the date for enforcement, the award of a Tribunal shall come into operation with effect from such date as may be specified therein, but where no date is so specified it shall come into operation from the date when the award becomes enforceable under sub-section (1). There is here a clear indication that it is within the powers of the Tribunal to make an award with retrospective effect from a specified date, and by its nature and terms the award in this case imposes a continuing obligation on the parties bound by it to pay the increased basic wages until it is varied in accordance with law. Otherwise under sub-section 5 of section 19 nothing contained in sub-section (3) of the section shall apply to this award, and the contention of the employers falls to the ground.

5. The third point raised was in respect of casual leave. There was a dispute regarding casual leave and it was referred to the Industrial Tribunal for adjudication. The Tribunal had to decide the question and it granted the demand to the extent of 7 days with pay and allowances subject to exigencies of service. Leave is not one of the matters specified in section 7(1)(b), of the Industrial Disputes (Appellate Tribunal) Act, 1950, in respect of which an appeal is provided, and the Appellate Tribunal has consistently held that an appeal in respect of leave would not lie under section 7(1)(b) of the Act. An appeal on any matter would lie under section 7(1)(a) if it involves a substantial question of law, but no such question is involved in this case. Non-cumulative casual leave with pay and allowances has become a regular feature in industrial concerns for some time now, and there is nothing capricious about the grant of seven days casual leave in this case. The appeal in so far as it concerns casual leave is therefore incompetent, and the recent decision of the Bombay High Court that under section 7(1)(a) an appeal would lie in respect of leave if the Industrial Tribunal had no jurisdiction to decide the matter or had acted in excess of its jurisdiction is not applicable. Here the dispute was referred to the Tribunal for adjudication and the Tribunal was bound to adjudicate and submit its award.

6. Gratuity.—The last point raised on behalf of the employers is against the grant of retiring benefits. It has been contended before us that the Tribunal erred in awarding gratuity to the extent it did. It has also been urged that the Company has no replacement reserves and that its financial position does not justify the imposition of a gratuity scheme; and lastly we are asked to reverse the scheme of gratuity on the ground that the Engineering Award of Calcutta, to which this company was a party in respect of its Calcutta business, had held that it was not justifiable to impose on the industry a dual scheme of provident fund and gratuity, and as there was already a provident fund a gratuity scheme was not warranted. It is true that this company is not as prosperous to-day as it was two or three years ago. But in deciding whether a gratuity scheme should be allowed, it is necessary to take a long term view of the company's financial position, its past business and the reasonable expectations of the future. The shortage of raw materials and the consequent high prices, and the difficulty of procuring stocks, are temporary difficulties which should disappear in the normal course of business. Contributions to the provident fund are now limited to 6½ per cent, although we recognise that the company was prepared to give provident fund benefits upto the extent of 15 per cent, and that the employees refused to take advantage of it. We appreciate that the question whether a gratuity scheme should be allowed or not must depend upon the facts and circumstances of each case. In the case before us the com-

pany is an established concern which no doubt finds itself in a position of temporary disadvantage and small profits. Its provident fund contribution is no more than 6½ per cent. to-day; and it had been awarding a gold medal worth about Rs. 200 to persons who completed 20 years service and a cash payment of Rs. 500 to those who completed 25 years service. The learned Adjudicator has come to the conclusion that taking all the facts into consideration a scheme of gratuity as given by him is reasonable, and we are not prepared to differ from that view. The company has 471 employees and we do not think that the payment of gratuity as ordered by the Tribunal would be a burden too onerous for the company. We are not impressed by the argument that because the Engineering Award of Calcutta has refused retiring benefits, we should for the sake of uniformity reverse the decision of the learned Adjudicator on this question of gratuity or retiring benefits. We must judge the case before us on its own merits and we cannot allow our judgment to be deflected by what a Tribunal may have done in respect of the employees of the company in a different place.

7. The appeal is therefore dismissed. The appellants are permitted to withdraw the amount deposited by them in the Reserve Bank of India, Bombay, in pursuance of this Tribunal's Stay Orders, dated the 23rd July 1951 for payment of the amount due to the respondents under the award. No order as to costs.

K. P. LAKSHMANA RAO,
President.

F. JEEJEEBHOOY,
Member.

Appeal (Bom.) No. 190 of 1951

The workmen employed under Messrs. Jagjivandas Narottamdas Metal Factory represented by General Secretary of the Metal Mazdur Sabha.

versus

(1) Messrs. Jagjivandas Narottamdas Metal Factory, Bombay.

(2) Workmen employed under Messrs. Jagjivandas Narottamdas Metal Factory not represented by Metal Mazdur Sabha.

In the matter of an appeal against the award of the Industrial Tribunal (Shri N. N. Majumdar) Bombay, in Ref. (ITB) No. 3 of 1951, published in the Bombay Government Gazette, dated the 14th June 1951.

The 25th day of October 1951

Present :

Mr. K. P. Lakshmana Rao, President.
Mr. F. Jeejeebhoy, Member.

Appearances :

For the Appellants :

Shri D. S. Nargolkar, Advocate.

For the Respondents :

(1) Shri H. S. Desai, Advocate (O.S.).
(2) No appearance.

State.—Bombay.

Industry.—Engineering.

DECISION

This is an appeal by the employees against the award of the Industrial Tribunal, Bombay, concerning the dispute between the Jagjivandas Narottamdas Metal Factory, Bombay and its workmen. Two grounds of appeal have been raised : (1) that the Tribunal erred in deciding demand No. 1 against the employees, which demand required the employers to provide work for full 26 days in a month, with every stoppage being treated as a paid holiday, and (2) that the Tribunal erred in reducing the dearness allowance from 85 per cent. to 50 per cent. of the Textile Mills scale.

2. As regards the first item, it is normal for the factory to work for 26 days in a month, and employment for 26 days in a month is the usual practice. There are, however, occasions when it is not possible for the factory to provide such full employment, and it is in order to meet such unfortunate contingency that provision has been made in the Standing Orders. Order 20 of the Standing

Orders provides that workmen may be played off due to shortage of orders, temporary curtailment of production or similar reasons and consequent stoppage of any machine or department for a period not exceeding 6 days in the aggregate (excluding statutory holidays) in any month, provided that 7 days' notice is given. A workman played off under this Standing Order for more than 5 days in a month may on his being played off leave his employment on intimation of his intention to do so.

3. The Adjudicator has held that the claim under this head is not sustainable, and we see no reason to interfere.

4. The second demand of the employees was to the effect that the cut made by the company in dearness allowance from 1st December 1950 should be restored to the original rate; in effect that the dearness allowance should be raised from 50 per cent. to 85 per cent. of the textile rate. The dearness allowance at 85 per cent. of the textile rate had been given by an award which has been published in I.C.R. (Bom) February 1950, page 251. The learned Adjudicator there stated that the employer was willing to pay a dearness allowance at the rate of 62½ per cent. of the textile rate; the employer had, however, failed to make a full discovery of his financial position, with the result that the learned Adjudicator directed

5. In the award which is now before us the Adjudicator states that "Justification of the cut will have to be decided firstly on the basis as to the right of the company to interfere that the dearness allowance should be paid at the rate of 85 per cent. of the textile rate.

fere with the previous award both as a matter of legality or propriety. Secondly it will have to be based on the finding as to what should be the quantum of dearness allowance awardable looking to the financial capacity of the company and the basic wage paid by it."

6. There is no necessity to decide about the right of the company to interfere with any award; an award is enforceable for a period of one year under the Act, and since a fresh reference had been made the question of dearness allowance was open to fresh consideration. The question which arose out of the reference was the quantum of dearness allowance, and in considering this question the learned Adjudicator was in error in confining his outlook to the "financial capacity of the company and the basic wage paid by it". Without doubt it is true that the financial capacity of the company is a factor in determining the higher ceiling of dearness allowance; but primarily the employees of the concern are entitled to be paid a reasonable and fair wage, which translated in terms of basic wage and dearness allowance, means that the total emoluments should not be lower than a particular figure. As has been stated by the Report of the Committee on Fair Wages, between the two limits of a minimum wage and an upper limit set by the capacity of the industry to pay, the actual wages will depend upon certain factors, including the prevailing rates of wages in the same or similar occupations in the same or neighbouring localities. In other words, one of the principal facts to be ascertained is the quantum of total emoluments in comparable concerns in the locality. From this point of view we get limited assistance from the award of the learned Adjudicator but we are satisfied that his reduction of dearness allowance from 85 per cent. to 50 per cent. of the textile rate cannot be sustained. We have heard counsel on this question of quantum and figures of some concerns said to be comparable have been placed before us. We think that the Oriental Metal Pressing Works could be regarded as a fairly comparable concern, and taking the basic wage and dearness allowance given by that concern, and the other facts now before us, including the financial position of the company, we are of the view that the employees here should receive 62½ per cent. of the textile rate as dearness allowance.

7. We therefore reverse the decision of the Tribunal below and increase the dearness allowance from 50 per cent. to 62½ per cent. of the textile rate. The rest of the appeal is dismissed. We do not consider it necessary to deal with the reasons which the learned Adjudicator has given in his decision, but it must not be assumed that we agree with them.

K. P. LAKSHMANA RAO,
President.

F. JEEJEEBHOOY,
Member.

DIRECTORATE GENERAL OF SUPPLIES AND DISPOSALS

NOTIFICATION

New Delhi, the 15th November 1951

No. A-1/1(125).—Mr. B. A. Shenoy, Assistant Director of Disposals (Grade II) in the Directorate of Supplies and Disposals, Madras, was granted earned leave for 2 days from the 6th November, 1951 to the 7th November, 1951.

SHIV CHARAN SINGH,
Director (Administration & Co-ordination),
for Director General, Supplies and Disposals.

MINISTRY OF COMMERCE AND INDUSTRY

NOTIFICATIONS

Bombay, the 12th November 1951

No. 9(9)-Tex.1/49.—In exercise of the powers conferred on me by clause 34 of the Cotton Textiles (Control) Order, 1948, with the sanction of the Central Government and in supersession of the Textile Commissioner's notification No. 9(9)Tex.1/49(iii), dated the 16th July 1951, I hereby authorise each of the officers specified in column (2) of the table below to exercise on my behalf in relation to cloth the functions and powers of the Textile Commissioner under sub-clause (2) of clause 30 of the said order within the State specified in the corresponding entry in column (3) of that table :—

Table

Serial No. 1	Designation of the officers 2	Name of State 3
1. (i)	Director of Controlled Commodities, Madras	
(ii)	Assistant Textile Commissioner (Distribution), Madras.	Madras.
2. (i)	Textile and Yarn Controller, Madhya Pradesh	Madhya Pradesh.
(ii)	Assistant Textile and Yarn Controller, Madhya Pradesh.	Madhya Pradesh.
3.	Director of Textiles, West Bengal	West Bengal.
4. (i)	Provincial Textile Controller, Uttar Pradesh	Uttar Pradesh.
(ii)	Personal Assistant to the Provincial Textile Controller, Uttar Pradesh.	Uttar Pradesh.
5. (i)	Director of Civil Supplies, Punjab.	
(ii)	Joint Director, Civil Supplies, Punjab	Punjab.
(iii)	Assistant Director of Textiles and Provincial Cloth Control Officer, Punjab.	
6.	Cloth Controller, Bihar	Bihar.
7. (i)	Secretary to the Govt. of Orissa, Supply Department, Orissa.	Orissa.
(ii)	Additional Under Secretary to Govt. of Orissa, Supply Department, Orissa.	
8.	Textile Commissioner, Hyderabad	Hyderabad
9.	Controller of Civil Supplies, Mysore	Mysore
10.	Commissioner, Civil Supplies, Rajasthan	Rajasthan.
11.	Textile Commissioner, Trivandrum	Travancore-Cochin.
12.	Director of Rationing and Civil Supplies, Delhi	Delhi.
13.	Textile Commissioner, Bhopal	Bhopal
14.	Director of Civil Supplies, Pepsu	Pepsu

No. 9(9)-Tex.1/49(i).—In exercise of the powers conferred on me by clause 34 of the Cotton Textiles (Control) Order, 1948 and with the sanction of the Central Government I hereby authorise each of the officers in the Office of the Textile Commissioner (including the Branch Offices at Ahmedabad, Calcutta, Coimbatore, Indore and Kanpur) specified in column (2) of the table appended to this notification to discharge on my behalf the functions and powers of the Textile Commissioner under the clause or clauses of the said Order specified in the corresponding entry in column (3) of that table.

2. The following notifications of the Textile Commissioner are hereby cancelled :—

- (1) 80-Tex.1/48 dated 26th October 1948.
- (2) 80-Tex.1/48 dated 20th November 1948.
- (3) 80-Tex.1/48(i) dated 14th December 1948.
- (4) 80-Tex.1/48(ii) dated 14th December 1948.
- (5) 80-Tex.1/48(iv) dated 14th December 1948.
- (6) 17(1)Tex.(2)/49(iii) dated 15th January 1949.
- (7) 9(9)Tex.1/49(i) dated 13 August 1949.
- (8) 9(9)Tex.1/49(ii) dated 13th August 1949.

- (9) 9(4)Tex.1/49 dated 8th October 1949.
- (10) 9(4)Tex.1/49(i) dated 8th October 1949.
- (11) 9(9)Tex.1/49 dated 11th August 1950.
- (12) 9(9)Tex.1/49(iii) dated 4th December 1950.
- (13) 9(9)Tex.1/49 dated 13th February 1951.
- (14) 9(9)Tex.1/49 dated 16th July 1951.
- (15) 9(9)Tex.1/49(iv) dated 16th July 1951.

Table

Serial No. 1	Designation of offcres. 2	Clause or clauses 3
1	Deputy Textile Commissioner	20
2	Deputy Textile Commissioner and Director (Production).	22
3	Deputy Textile Commissioner, Director (Yarn) and Deputy Director (Yarn).	12
4	Deputy Textile Commissioner, Director (Production), Deputy Director (Prices).	13, 19, 20B
5	Deputy Textile Commissioner, Director (Cloth), Director (Yarn), and Deputy Director (Yarn).	20A
6	Deputy Textile Commissioner, Director (Cloth), Director (Production), Deputy Director (Prices).	200
7	Deputy Textile Commissioner, Director (Cloth), Director (Yarn), Deputy Director (Cloth), Deputy Director (Yarn), Deputy Director (Transport).	21, 30
8	Deputy Textile Commissioner, Director (Cloth) Director (Yarn), Deputy Director (Cloth), Deputy Director (Yarn), Deputy Director (Transport), Assistant Director (Export), Assistant Director (Control), Regional Directors of Production, Ahmedabad and Indore; Regional Deputy Directors of Production, Calcutta and Coimbatore.	29
9	Deputy Textile Commissioner and all Directors, Deputy Directors and Assistant Directors in the Office (including the said Branch Offices) of the Textile Commissioner	31

No. 9(9)-Tex.1/49(ii).—In exercise of the powers conferred on me by sub-clause (4) of clause 30 of the Cotton Textiles (Control) Order, 1948 I hereby direct that subject to any direction under sub-clause (2) of the said clause the provisions of that clause shall not apply to the cloth and yarn specified below :—

- (1) Non-wearable varieties of cloth, that is—
 - (a) Filter Cloth.
 - (b) Lint Cloth (excluding Flaneletts).
 - (c) Mosquito netting.
 - (d) Handkerchiefs.
 - (e) Canvas and Ducks Cotton.
 - (f) Furnishing Fabrics.
 - (g) Towels.
 - (h) Polishing Cloths not exceeding one square yard in size.
 - (i) Table linens, including Napkins, Serviettes and Table Cloths with the heading on all four sides or hemmed, but not in running lengths.
 - (j) Rags and Chindies as defined in the Textile Commissioner's notification No. 80-Tex.1/48(iii) dated the 2nd August, 1948.
 - (k) Buckram Canvas.
 - (l) Cotton Waste Blankets.
 - (m) Tape.
 - (n) Newar.

Note.—No cloth shall be deemed to be included in the entries (e), (f) and (k) above unless a sample thereof has been sent to the Director (Production) in the Office of the Textile Commissioner and has been certified in writing by that officer as being a non-wearable variety.

(2) Cloth produced by a producer who has no spinning plant.

(3) Cloth sold by a processor.

(4) any specified quantity of cloth or yarn produced by a manufacturer with regard to which that manufacturer has been informed by the Textile Commissioner, Deputy Textile Commissioner, Director (Cloth), Director (Yarn), Deputy Director (Cloth) or Deputy Director (Yarn) in the Office of the Textile Commissioner that it is not wanted by the Textile Commissioner for the purposes of distribution to any person falling in any of the categories referred to in sub-clause (1) of the said clause, provided that in the case of cloth the manufacturer sells it to any licensed dealer or processor or to any consumer approved by any of the said Officers and in the case of yarn the manufacturer sells it to any licensed dealer or processor or consumer.

(6) One-half percent of every wearable variety of cloth packed by any manufacturer in any month provided that no manufacturer shall make any sale under this item except to a person or persons and in the quantities specified in writing by any of the said officers.

(6) Hard Waste, not exceeding 7 per cent. of the total production of yarn in any month. Hard Waste under this item, means and includes the categories of yarn more particularly specified below, namely :—

- (a) Grey sized long ends.
- (b) Grey unsized long ends.
- (c) Coloured unsized long ends.
- (d) Coloured sized long ends.
- (e) Coloured sized short ends.
- (f) Grey unsized short ends.
- (g) Grey sized short ends.
- (h) Coloured unsized short ends.
- (i) Dirty beam ends.
- (j) Warping hard waste.
- (k) Bleached yarn waste.
- (l) Coloured yarn waste.
- (m) Coloured mixed yarn waste.
- (n) Winding hard waste.
- (o) Winding hard waste dirty.
- (p) Reeling hard waste.
- (q) Bobbin cut waste.
- (r) Bonda piecer waste.
- (s) Weaving Sweeping.
- (t) Oily hard waste.
- (u) Pulled out and broken cops.

(7) Waste yarn of counts below 1s.

The 13th November 1951

No. TCS IV/TP/9.—In pursuance of clause 8 of the Cotton Textiles (Transmission by Post) Prohibition Order, 1951, I hereby direct that the following amendments shall be made in the Textile Commissioner's notification No. S.R.O. 1538 dated 20th September 1951, namely :—

In the Schedule appended to the said notification—

(i) for entry No. 9, the following entry shall be substituted, namely :—

Additional Under Secretary to Govt. Orissa State
Supply Department, Orissa

(ii) after entry No. 27 the following entries shall be added, namely :—

28 Controller of Supply, Orissa	Orissa State.
29 Deputy Food and Civil Supplies Commissioner, Bhopal.	Bhopal State.
30 Assistant Food and Civil Supplies Commissioner, Bhopal.	Do.
31 The Collectors, Sheore and Raisen, Bhopal State.	Within their respective jurisdictions.
32 Personal Assistant to the Provincial Textile Controller, U.P.	Uttar Pradesh State.
33 District Magistrate, Faizabad	Within his jurisdiction.
34 Personal Assistant to the Director of Control of Comm. ofiles, Madras.	Madras State.
35 Assistant Textile Commissioner (Cloth), Madras.	Do.
36 Assistant Textile Commissioner (Yarn), Madras.	Do.
37 Deputy Commissioners of the Cis-tacts of Mahasu, Mandi, Sirmur, and Chamba in Himachal Pradesh.	Within their respective jurisdictions.
38 Assistant Provincial Textile Commissioner, Assam.	Assam State.
39 All Deputy Commissioners, all Sub-Divisional Officers, all Political Officers in the North East Frontier Agency, the Superintendent, Lushai Hills, the Special Officer, Miti Hills and the Sub-Deputy Collector in-charge of Textiles, Nafbari, in Assam State.	Within their respective jurisdictions.
40 The Civil Supplies Officers, Bilaspur (Simla Hills).	Bilaspur State.
41 All Deputy Commissioners in Vidhya Pradesh State.	Within their respective jurisdictions.
42 All District Magistrates in Bombay State.	Within their respective jurisdictions.
43 All District Collectors and Assistant Textile Commissioners of Hyderabad State.	Within their respective jurisdictions.

- 44 Deputy Textile Commissioner, Madhya Bharat State.
Mavhyā Bhārat.
- 45 Assistant Director of Civil Supplies, Madhya Bharat (I/C Textiles).
Do.
- 46 All Collectors and all Regional Controllers of Civil Supplies and Textiles in Madhya Bharat State. Within their respective jurisdictions.

T. SWAMINATHAN,
Textile Commissioner.

SURVEY OF INDIA

NOTIFICATIONS

Mussobrie, the 9th November 1951

No. 2145/P.F.—Captain I. N. Thukral, Deputy Superintending Surveyor, Survey of India, was granted, under the Revised Leave Rules (1933), earned leave for 8 days from 4th April, 1951 to 11th April 1951, and leave on private affairs for 1 day on 12th April 1951, with permission to affix holiday on 13th April 1951.

The 14th November 1951

No. 2146/P.F.—Sri B. L. Gulatee, Director, Geodetic and Training Circle, Survey of India, Dehra Dun is granted under the Fundamental Rules leave out of India on average pay for 2 months and 15 days with effect from 15th October, 1951 with permission to affix Sundays on 14th October 1951 and 30th December 1951 to the leave.

I. H. R. WILSON,
Colonel,
Offg. Surveyor General of India.

GEOLOGICAL SURVEY OF INDIA

NOTIFICATIONS

Calcutta-13, the 9th November 1951

No. 14398.—Mr. K. Rajarajan, B.Sc., (Hons.) is appointed to officiate as Assistant Geologist in the Geological Survey of India on Rs. 275/- p.m. in the scale of Rs. 275—25—500—E.B.—30—650 with effect from the forenoon of the 8th November, 1951, until further orders.

M. S. KRISHNAN,
Director,
Geological Survey of India.

Calcutta-13, the 13th November 1951

No. 14546.—The Director, Geological Survey of India, has been pleased to grant to Mr. S. K. Ramaswamy, Assistant, Geologist, Geological Survey of India, earned leave for five days with effect from the forenoon of the 16th October, 1951 with the permission to prefix the Durga & Luxmi Puja Holidays commencing from 6th to 15th October 1951 and to affix the Sunday the 21st October 1951.

He is likely to resume his duties at Calcutta whence he has proceeded on leave.

The 14th November 1951

No. 14621.—Director, Geological Survey of India, has granted Dr. A. G. Jhingran, Superintending Geologist, Geological Survey of India, earned leave for 17 days with effect from the forenoon of the 16th October, 1951 with permission to prefix the Durga Puja and Lakshmi Puja holidays from 6th October 1951 to 15th October 1951.

He is likely to resume his duty at Nagpur whence he has proceeded on leave.

N. K. N. AIYENGAR,
Assistant Director,
Geological Survey of India.

Calcutta-13, the 16th November 1951'

No. 14795.—Mr. A. K. Majumdar, B.Sc., D.I.C. (London), temporary Chemical Assistant, Geological Survey of India is promoted to the temporary post of Assistant Chemist in the Geological Survey of India in the scale of Rs. 275—25—500—E.B.—30—650—E.B.—30—710 with effect from the forenoon of the 13th November 1951 until further orders.

M. S. KRISHNAN,
Director,
Geological Survey of India.

DIRECTORATE GENERAL, ALL INDIA RADIO

NOTIFICATIONS

New Delhi, the 12th November 1951

No. 1(13)-AII/51.—Mr. J. K. Kitchlue, officiating Asstt. News Editor, News Services Division, All India Radio, was granted earned leave for 21 days with effect from the 23rd May 1951, combined with leave on half average pay for 10 days.

The 14th November 1951

No. 10(86)-A/51.—Mr. V. Balasundram, officiating Assistant Station Director, External Services Division, All India Radio, New Delhi, is transferred to the Directorate General, All India Radio, as officiating Instructor (Programmes), Staff Training Unit, with effect from the 1st November 1951.

No. 2(22)-A/51.—Mr. Roshan Ali, officiating Assistant Station Director, All India Radio, Hyderabad, is granted privilege leave for one month with effect from the 3rd November 1951.

No. 3(1/7)-SII/51.—Mr. A. H. Gran, Pushtu Superintendent, External Services Division, All India Radio, was granted earned leave for 32 days with effect from the 17th September 1951 with permission to affix the Sunday the 16th September 1951 to the leave.

The 15th November 1951

No. 2(1)A/51.—Miss. A. Sayal, Officiating Assistant Station Director, External Services, Division All India Radio, New Delhi, has been granted leave for 133 days with effect from the 21st August 1951 as follows :—

21st August 1951 to 9th October 1951—earned leave for 50 days.

10th October 1951 to 8th December 1951—half average pay leave for 60 days.

9th December 1951 to 31st December 1951—Extraordinary leave for 23 days.

2. Mr. N. L. Chowla, officiating Programme Executive External Services Division, All India Radio, New Delhi, has been appointed to officiate as Assistant Station Director, External Services Division, A.I.R., vice Miss Sayal granted leave.

S. BANERJEE,

Deputy Director of Administration,
for Director General.

DIRECTORATE GENERAL OF HEALTH SERVICES

Port Health

NOTIFICATIONS

New Delhi, the 10th November 1951

No. 5-4/51-P.H.III.—In continuation of the leave granted to Dr. S. Chakravarty, M.B., D.P.H., Port Health Officer, Visakhapatnam, vide this Directorate notification No. 5-4/51-PH III, dated 18th July 1951, he is granted leave not due for 122 (one hundred and twentytwo) days from 7th August 1951 to 6th December 1951.

R. D. VOHRA,
for Director General of Health Services.

New Delhi, the 15th November 1951

No. 44-18/51-MI.—Dr. D. N. Majumder, 4th Assistant to the Serologist and Chemical Examiner to the Government of India, Calcutta, is granted earned leave for 30 days, with effect from the 11th October, 1951, with permission to prefix Sunday and closed holidays from the 7th to the 10th October, 1951, to the leave.

R. VISHWANATHAN,
for Director General of
Health Services.

CENTRAL TRACTOR ORGANISATION

NOTIFICATION

New Delhi, the 10th November 1951

No. F. 3-44/51-E.I.—Shri Arjan Singh, Foreman, Central Tractor Organisation, is promoted until further orders to a temporary post of Assistant Engineer, Central Tractor Organisation, with effect from 18th October, 1951, forenoon.

C. V. NARASIMHAN,
Chairman.

CENTRAL RICE RESEARCH INSTITUTE

NOTIFICATION

Cuttack-4, the 8th/9th November 1951

No. F.14/48-Pr.-5230.—Sri W. T. Butany, Assistant Botanist at Central Rice Research Institute, Cuttack was granted earned leave for 16 days from 28th August 1951 to 12th September 1951, with permission to suffix 13th September, 1951.

S. RAMANUJAM,
Director.

DIRECTORATE OF PLANT PROTECTION,

QUARANTINE AND STORAGE

NOTIFICATION

New Delhi, the 9th November 1951

No. F.2(145)/47-G.—On the expiry of leave, Bawa Jaswant Singh, permanent Administrative Officer, Directorate of Plant Protection, Quarantine and Storage, resumed charge of the duties of his office at New Delhi, with effect from the fore-noon of 5th November, 1951.

2. The services of Shri A. B. Mathur, officiating Administrative Officer vice Bawa Jaswant Singh have been placed at the disposal of the Ministry of Food & Agriculture (Agriculture) with effect from the after-noon of 3rd November, 1951.

B. B. MUNDKUR,
for Plant Protection Adviser.

INDIAN VETERINARY RESEARCH INSTITUTE

NOTIFICATIONS

Izatnagar, the 10th November 1951

No. 10733-35/G.—Shri C. T. Peter, officiating Assistant Research Officer (Helminthology), Section of Parasitology, Indian Veterinary Research Institute, Izatnagar, has been granted earned leave for 19 days from 11th October to the 29th October, 1951, with permission to prefix Sunday the 7th October, 1951 and Dussehra holidays from the 8th to 10th October, 1951 and to affix Diwali holidays from the 30th to the 31st October, 1951.

The 16th November 1951

No. 10816-18/G.—Shri H. P. Tandon, L.V.P. (Hons.), Assistant Research Officer (Poultry), Poultry Research Section, Indian Veterinary Research Institute, Izatnagar, was granted earned leave for 41 days from the 16th July, 1951, to the 25th August, 1951, with permission to prefix and affix Sundays, the 15th July, 1951 and 26th August, 1951, respectively.

No. 10819-21/G.—In continuation of this office Notification No. 3133-35/G, dated the 17th August, 1951, Captain S. B. V. Rao, Research Officer (Pathology), Poultry Research Section, Indian Veterinary Research Institute, Izatnagar, was granted extension of earned leave for seven days, with effect from the 19th August, 1951, with permission to affix Sunday the 26th August, 1951.

No. 10822-25/G.—Shri S. N. Luktu, G.B.V.C., Research Assistant, is appointed in an officiating capacity, until further orders, to the temporary post of Assistant Research Officer (Hormones), Animal Genetics Section, Indian Veterinary Research Institute, Izatnagar, with effect from the 4th October, 1951.

S. DATTA,
Director.

INDIAN POSTS AND TELEGRAPHS DEPARTMENT
Office of the Director General of Posts and Telegraphs

NOTIFICATIONS

New Delhi, the 12th November 1951

No. SPA.74-2/51.—Consequent on the re-organisation of the Postal Service, Shri S. R. Krishnamurthi, offg. Asstt. Postmaster-General, Trivendrum, is posted as Senior Superintendent of R.M.S., Madras Sorting Division, in the Senior Time Scale of the Indian Postal Service, Class I, with effect from the 1st November, 1951, afternoon.

Shri K. K. Unni, officiating Superintendent of R.M.S. Madras Sorting Division, is posted as officiating Asstt. Postmaster-General, Madras, with effect from the 25th October, 1951 afternoon, relieving Shri K. Gopalakrishnan.

Shri M. K. Shyam Bhat, Superintendent of R.M.S. 'F' Division, Nagpur, is posted as Asstt. Postmaster-General, Nagpur, with effect from the 22nd October, 1951, relieving Shri M. R. Krishnan.

No. STA 168-3/51.—Shri M. C. D'Souza, officiating Deputy Director Telegraph Traffic Bombay is granted leave on average pay for two months and five days with effect from 3rd November 1951.

KRISHNA PRASADA,
Director General.

OFFICE OF THE DIRECTOR GENERAL OF CIVIL AVIATION

NOTIFICATIONS

New Delhi, the 7th November 1951

No. E(C)11-4/51.—The following transfers have been made:

Name & designation of the officer.	Date of relinquishment of charge.	Station to which transferred.	Date of assumption of charge.
Mr. S. V. Raghavan, Asst. Communication Officer, Aeronautical Communication Station, Ahmedabad.	3-10-51 (forenoon)	Aeronautical Communication Station, Madras.	15-10-51 (afternoon)
Mr. S. V. Krishna-machari, Asst. Communication Officer, Aeronautical Communication Station, Madras.	15-10-51 (afternoon)	Aeronautical Communication Station, Ahmedabad	29-10-51 (forenoon)

The 8th November 1951

No. E(C)15-10(1)/51.—Mr. C. G. Nagarajan, Assistant Technical Officer, Aeronautical Communication Station, Bombay has been granted earned leave for 54 days with effect from the 15th October 1951, with permission to prefix Sunday the 14th October 1951 to his leave.

T. P. BHALLA,
Director General of Civil Aviation.

INDIA METEOROLOGICAL DEPARTMENT

NOTIFICATION

New Delhi-3, the 16th November 1951

No. E(I).03433.—On return from leave granted to him in this Department Order No. E(I).03433, dated 28th September 1951, Mr. D. A. Mooley, Professional Assistant, resumed duty as Offg. Assistant Meteorologist in the office of the Director, Regional Meteorological Centre, New Delhi, on the forenoon of the 1st November 1951.

V. V. SOHONI,

Director General of Observatories.

DIRECTORATE OF MARKETING AND INSPECTION

NOTIFICATION

New Delhi, the 10th November 1951

No. F.56(3)/302/49-D.—Shri L. K. Shukla, B.Sc., A.H.B.T.I., Officiating Inspector, Quality Control, has been transferred from New Delhi to Rajkot with effect from the 9th November, 1951 (Afternoon).

T. G. SHIRNAME,
Agricultural Marketing Adviser
to the Government of India.

COLLECTORATE OF CENTRAL EXCISE

NOTIFICATIONS

Shillong, the 11th November 1951

No. 12.—Sri R. N. Sen, an officiating Superintendent of Central Excise, Sibsagar is granted earned leave for 62 days from 28th October 1951 to 26th December 1951.

B. B. BARMAN,
Collector of Central Excise,
Shillong.

Calcutta, the 12th November 1951

No. 29.—Sri P. R. Biswas, Temporary Officiating Superintendent of Land Customs is granted 31 days earned leave from 11th October 1951 to 10th November 1951.

The 14th November 1951

No. 30.—Sri Sudarshan Misra, an officiating Deputy Superintendent in the Central Excise Collectorate, Patna, appointed to officiate as Superintendent of Central Excise from 20th September 1951, vide Board's Notification No. 91, dated 26th October 1951, was posted to Alipurduars Circle in the Central Excise Collectorate, Calcutta, with effect from the same date.

J. W. ORR,
Collector of
Central Excise & Land Customs,
Calcutta.

Allahabad, the 16th November 1951

No. 23.—Shri H. N. Sehgal, a temporary Substitutive Superintendent of Central Excise Collectorate, Allahabad, on the expiry of his leave, took over charge of the Azamgarh Circle on the 5th November, 1951 (Forenoon).

No. 24.—Shri H. M. Singh, a confirmed Superintendent of Central Excise Collectorate, Allahabad, has made over charge of his duties of Deputy Headquarters Assistant Collector of Central Excise Allahabad to Shri N. D. Mukerji Superintendent of Central Excise (Intelligence) on the Forenoon of 9th November, 1951.

S. C. SATYAWADI,
Collector.

Madras, the 19th September 1951

C. No. V a/4/23/51-B.1.—In the Notification C No. IV b/1/12/51-E.1., dated the 23rd July 1951, for the words 'Andipatti Taluq' occurring in item 2 of Column 1, the words "Andipatti Firka of Periakulam Taluq" shall be substituted.

O. KRISHNAN,
Collector
of Central Excise.

OFFICE OF THE NARCOTICS COMMISSIONER

NOTIFICATION

New Delhi, the 16th November 1951

F. No. 02/I/6/50 (Part)/2368.—Shri Y. D. Pawar, Assistant Opium Cultivation Officer, Mandsaur is granted 40 days earned leave with effect from 9th June, 1951.

2. Certified that Shri Y. D. Pawar was likely to be re-posted on return from leave in the same place.

A. C. WHITCHER,
Narcotics Commissioner.

CENTRAL PUBLIC WORKS DEPARTMENT

NOTIFICATIONS

New Delhi, the 15th November 1951

No. 07615-EL.—Shri T. B. Gandhi, Assistant Engineer, attached to the Services Division, New Delhi, was granted earned leave for 13 days from the 17th to 29th September 1951, with permission to suffix Sunday the 30th September 1951 to his leave.

No. 02277(95)EL.—The services of Mr. B. M. Gupta, Assistant Engineer of this Department are placed at the disposal of the Chief Commissioner, Delhi, as Building Officer, Land and Development Office, New Delhi with effect from the Afternoon of the 6th October 1951.

B. S. PURI,
Chief Engineer.

New Delhi, the 9th November 1951

No. 06758-E/CAW.—Shri P. R. Puri, Assistant Engineer, attached to the Delhi Aviation Division, New Delhi, was granted earned leave for 13 days with effect from 10th September 1951 forenoon to 22nd September 1951 A.N., with permission to prefix and affix Sundays falling on 9th September 1951 and 23rd September 1951 to his leave under Revised Leave Rules, 1933.

The 12th November 1951

No. 02719-E/CAW.—Shri M. V. Mahabalam, Assistant Engineer (Elect.) attached to the Bombay Aviation Electrical Division, Bombay, was granted earned leave for 54 days with effect from 23rd July 1951 F.N. to 14th September 1951 A.N., with permission to prefix Sunday the 22nd September 1951 to his leave under Revised Leave Rules, 1933.

M. S. MATHUR,
Chief Engineer (Avn.).

OVERSEAS COMMUNICATIONS SERVICE

NOTIFICATIONS

Bombay, the 9th November 1951

No. GG. 8/14.—Mr. T. C. Sekhar, permanent Assistant Engineer, Kirkee, was granted earned leave for 15 days with effect from the 10th September 1951 to the 24th September 1951 with permission to prefix Sunday the 9th September 1951 to the leave.

Mr. S. Ramaswamy, temporary Assistant Engineer, Dhond, was granted earned leave for 11 days with effect from the 12th September 1951 to the 22nd September 1951 with permission to suffix Sunday the 23rd September 1951 to the leave.

The 10th November 1951

No. GG. 8/15.—In this Office Notification No. GG. 8/9 dated 11th August 1951, add the following as the second sub-para to paragraph 1:—

"It was intended that on expiry of the leave, the officials concerned should return to the same posts and stations from where they proceeded on leave".

S. R. KANTEBET,
General Manager.

OFFICE OF THE COMMISSIONER OF INCOMETAX

NOTIFICATIONS

Lucknow, the 2nd November 1951

No. 151.—As a result of reconstitution of business circle, Kanpur, the following postings of Income-tax Officers were made with effect from 1st August 1951:—

1. Shri C. P. Singh, Income-tax Officer, J(i) Ward, Kanpur, was appointed to be the Income-tax Officer, J-Ward, Kanpur.
2. Shri Khunni Lal Saxena, Income-tax Officer, J(ii) Ward, Kanpur, was appointed to be the Income-tax Officer, K-Ward, Kanpur.

DALIP SINGH,
Commissioner of Income-tax.
U.P. & V.P. Lucknow.

Delhi, the 10th November 1951

No. C-44(1)/22539.—Under Rule 81 read with Rule 80 of the Fundamental Rules 4 months' leave on average pay is granted to Shri N. C. Tandon, 2nd Addl. I.T.O., Business Circle, New Delhi with effect from 1st October 1951.

INDERJIT SINGH,
Commissioner of Income-tax.
Delhi, Ajmer, Rajasthan and Madhya Bharat.

ORDERS

Bombay, the 7th November 1951

No. B.S. Cirs. 2 of 1951-52.—In pursuance of sub-section (5) of Section 5 of the Indian Income-tax Act, 1922, the Commissioner of Income-tax Bombay South directs that with immediate effect, the Additional Income-tax Officer, Ward-B, Bijapur, shall and the Income-tax Officer, Ward-B, Bijapur shall not perform the functions of Income-tax Officer, in respect of persons other than companies, salary earners, and refund cases, whose place of assessment is Ward-B, Bijapur and whose income according to last completed assessment does not exceed Rs. 10,000.

The 9th November 1951

No. B.S. Cirs. 2 of 1951-52.—In pursuance of sub-section (5) of Section 5 of the Indian Income-tax Act, 1922, the Commissioner of Income-tax, Bombay South directs that

with immediate effect, the Additional Income-tax Officer, Kolaba District, Alibag shall and the Income-tax Officer, Kolaba Dist. Alibag shall not perform the functions of Income-tax Officer, in respect of persons, other than companies, salary earners and refund cases, whose place of assessment is in Kolaba District and whose income according to last completed assessment does not exceed Rs. 6,000 (six thousand).

H. M. PATTANAIK,
Commissioner of Income-tax,
Bombay South, Bombay.

CENTRAL WATER AND POWER COMMISSION

NOTIFICATIONS

New Delhi, the 12th November 1951

No. 350/98/51-Adm.—Shri Amar Singh, Assistant Engineer, Hirakud Dam Project was granted extra-ordinary leave for 45 days with effect from 5th September 1951 to 19th October, 1951 both days inclusive.

The 14th November 1951

No. 493/10/51-Adm.—In supersession of this office notification No. 493/10/50-Adm., dated 2nd September 1950, Shri B. G. Narayan was appointed as a temporary Assistant Engineer, in the Madhya Pradesh Projects Circle with effect from the forenoon of 6th April, 1950, and took over charge of the Mahanadi Dam Project Sub-division with headquarters at Dhamtari on the afternoon of 13th April 1950.

The 15th November 1951

No. 186/123/50-Adm.—Shri G. C. Joshi, Extra Assistant-Director, Central Water and Power Commission, was granted 10 day's earned leave with effect from 11th October, 1951, with permission to prefix Sunday the 7th, 8th, 9th and 10th October, 1951, closed holidays and to suffix Sunday the 21st October, 1951 to the leave.

V. S. ANNASWAMI,
Secretary,
for Chairman, Central Water &
Power Commission.

EAST INDIAN RAILWAY

NOTIFICATIONS

Calcutta, the 9th November 1951

No. AE.2134/Prom/7/1.—The following Probationary Officers of the Transportation (Traffic) and Commercial Departments of this Railway are confirmed in the Junior Scale of that Department with effect from the dates noted against each:—

Name	Date of Confirmation
1. Mr. P.C. Shaukla	.. .. .. .. 16-10-51
2. Mr. Brahma Swarnp	.. .. .. .. 15-10-51
3. Mr. D.D. Gupta	.. .. .. .. 21-10-51
4. Mr. V. S. Misra	.. .. .. .. 25-10-51
5. Mr. S. Ketharaman	.. .. .. .. 25-10-51
6. Mr. K.D. Madan	.. .. .. .. 19-10-51

The 12th November 1951

No. AC. 190/S.—Mr. E. J. N. Robertson, Officiating District Controller of Stores of the Stores Department of this Railway is confirmed in the Lower Gozetted Service in the same Department with effect from the 23rd October 1949.

The 15th November 1951

No. ELC/N.—Mr. M. P. Fleming, Asstt. Electrical Engineer, (LGS), of the Electrical Engineering Department, who was granted 88 days P.L. combined with commuted furlough for 5 months and 4 days and furlough on half pay for 4 months out of India with effect from 13th November 1950 vide Notification No. ME.130(N), dated 30th October 1951, resumed duty on the forenoon of 8th November 1951. The unexpired portion of his leave for 5 days viz., from 8th November 1951 to 12th November 1951 both days inclusive is hereby cancelled.

The 16th November 1951

No. AE.2134. Prom 7-II.—The following Probationary Officers (I.R.S.E) are confirmed in the Junior Scale of the Civil Engineering Department of this Railway with effect from the dates as noted against each.

Name	Date
1. Sri B. R. Karnad	—8th October, 1947.
2. Sri G. H. Keshwani	—11th October, 1947.
3. Sri C. S. Rao	—7th May, 1948.
4. Sri S. K. Gandotra	—13th January, 1950.

No. AE. 2904.—Mr. G. D. Khandelwal, a senior scale officer of the Transportation (Traffic) and Comml. Department of this Railway, was granted leave on average pay on medical certificate for 112 days from 5th July, 1950 to 24th October, 1950 and commuted leave for 29 days from 25th October, 1950 to 22nd November, 1950 and leave without medical certificate on half average pay from 23rd November, 1950 to 26th November, 1950.

The 17th November 1951

No. Actt/3.—Mr. A. Achyuta Raman, Junior Accounts Officer has been appointed to perform current duties of a Senior Accounts Officer from the forenoon of the 11th June 1950.

B. B. VARMA,
General Manager.

EASTERN PUNJAB RAILWAY

NOTIFICATIONS

Delhi, the 8th November 1951

No. III.—Shri Y. Krishan, Officiating Senior Accounts Officer, Eastern Punjab Railway, was granted leave on average pay for a period of 17 days with effect from 20th September, 1951, with permission to suffix Dussehra holidays from 7th October to 10th October 1951.

No. 109.—Shri Mohinder Singh, officiating Divisional Mechanical Engineer, Eastern Punjab Railway, was granted leave on average pay for a period of 15 days with effect from 6th September, 1951.

This is in supersession of this office Notification No. 103 dated 18th September, 1951.

No. 110.—Shri L. D. Keswani, Assistant Engineer (Bridges), was granted special disability leave on average pay for 90 days and ordinary leave on average pay on medical certificate for 4 months with effect from 19th November, 1948 to 18th June, 1949. This is in supersession of this office notification No. 2 dated 11th January, 1950.

The 9th November 1951

No. 112.—Dr. H. S. Chhachhi, Divisional Medical Officer, Eastern Punjab Railway, is granted post retirement leave on average pay for a period of 4 months with effect from 17th November, 1951.

DAYA CHAND,
Chief Administrative Officer.

CENTRAL RAILWAY

NOTIFICATIONS

Bombay, the 15th November 1951

No. 21620-R/257.—Mr. R. N. Baker—Chief Controller has been appointed to officiate as Assistant Transportation Superintendent (Class II) with effect from 1st August, 1951.

Mr. V. J. Nissim Traction Foreman has been appointed to officiate as Assistant Transport Superintendent (Traction) (Class II) with effect from 4th September, 1951.

Dr. S. L. Malhotra, District Medical Officer returned from leave on 16th September, 1951.

Mr. M. N. Mukerji, Assistant Transportation Superintendent (Traction) (Junior Scale) was granted 13 days leave on average pay with effect from 1st October, 1951.

Mr. J. H. P. Staveley, Assistant Transportation Superintendent (Class II) has been granted 24 months combined leave (viz 2 months and 1 day's privilege leave and the balance as furlough on half pay) preparatory to premature retirement with effect from 1st October, 1951.

Mr. J. Y. Margathe, Officiating Executive Engineer (Senior Scale) has been appointed as Officer on Special Duty Regrouping (Senior Scale), General Manager's Office with effect from 2nd October, 1951.

Mr. B. P. Chopra, Senior Instructor, Railway Training School, Bina has been appointed to officiate as Assistant Controller of Grainshops (Class II) with effect from 16th October 1951.

Mr. M. S. Sundara, Officiating Assistant Transportation Superintendent (Senior Scale) has been appointed as Officer on Special Duty Regrouping (Transportation and Commercial) (Senior Scale) General Manager's Office with effect from 20th October, 1951.

H. P. HIRA,
General Manager.

OUDH TIRHUT RAILWAY

NOTIFICATION

Gorakhpur, the 9th November 1951

Dr. C. H. H. Robertson, Offg. Chief Medical Officer has been reverted as Distt. Medical Officer and posted to E.I. Railway w.e.f. from 25th October, 1951 A.N.

Shri Ranjit Singh, Offg. Dy. Traffic Manager (C) has been reverted to his substantive post and posted as D.T.S. (G) w.e.f. 24th October 1951 F.N.

Shri K. N. Nair, Offg. Distt. Traffic Supdt. (G) has been reverted as Asstt. Traffic Supdt. with effect from 24th October 1951 F.N., and has been confirmed in Jr. Scale as Asstt. Traffic Supdt. w.e.f. from 4th March 1951.

Shri K. Jayram on return from leave has been posted as Jr. Accounts Officer w.e.f. 22nd October 1951 F.N.

Shri Shambhoo Narain Offg. Asstt. Accounts Officer has been granted 43 days L.A.P. w.e.f. from 22nd October 1951 F.N.

Shri A. K. Bhaduri, Proby. Assistant Traffic Supdt., on completion of his Probationary period has been posted as Assistant Traffic Supdt., Gonda with effect from 19th October 1951 F.N.

Shri O. H. Jones, Officiating Assistant Traffic Supdt., Gonda has been reverted as Chief Controller, Class III, with effect from 19th October 1951 F.N.

After availing 23 days L.A.P. out of 1 month granted leave Shri V. M. Anthony resumed duty as Offg. Assistant Mechanical Engineer on 10th October 1951 F.N.

After availing 9 days L.A.P. out of 10 days granted leave Shri B. D'silva resumed duty as Assistant Mechanical Engineer on 6th October 1951 F.N.

Shri S. C. Bose, Offg. Assistant Accounts Officer has been reverted as Senior Accountant, Class III, with effect from 1st November 1951 F.N.

G. PANDE,
General Manager.

UNION PUBLIC SERVICE COMMISSION

Advertisement No. 46

Applications are invited for five posts of English and three posts of Hindi Reporters for Parliament Secretariat. Qualifications.—Degree or at least 10 years stenographic experience. In either case high professional skill in English, Hindi and Urdu reporting required. Age.—25-40 years. Relaxable for exceptionally capable candidates. Pay.—Rs. 450—710 for pre-1931 entrants in Government Service, and Rs. 450—710 for post-1931 entrants and direct recruits. Fee.—Rs. 22/8/- Closing date.—22nd December, 1951. Further particulars and application forms from Secretary, Union Public Service Commission, Post Box No. 186, New Delhi. Candidates from overseas may apply on plain paper.

Applications invited for undermentioned posts from Indian citizens and persons migrated from Pakistan with intention of permanently settling in India or subjects of Nepal, Sikkim or Portuguese or French possession in India. Upper age limit relaxable by 3 years for scheduled castes, tribal and aboriginal communities and displaced persons. No relaxation for others save in exceptional cases and in no case beyond three years. Particulars and application forms from Secretary, Union Public Service Commission, Post Box No. 186, New Delhi. Applications for forms must specify name or post. Closing date for applications with treasury receipt or crossed Indian Postal Order for Rs. 7/8/- (Rs. 1/14/- for Scheduled Castes and tribes) 15th December, 1951 (29th December, 1951, for applicants abroad). Commission may remit genuinely indigent and bona fide displaced persons' fee. Separate application with separate fee required for each post. Candidates abroad may apply on plain paper if forms not available and deposit fees with local Indian Embassy. If required candidates must appear for personal interview.

1. One Research Officer (Trace Elements Scheme), Animal Nutrition Section, Indian Veterinary Research Institute.—Temporary up to March, 1954. Other things being equal, preference to scheduled caste candidate. Pay.—Rs. 600—40—1,000—1,000—1,050—1,050—1,100—1,150. Age.—Below 46 years. Relaxable for Government servants. Qualification.—Essential.—(i) Doctorate degree in Biochemistry or Physiology of recognised University. (ii) Specialised training in Physiology of Trace Elements and deficiency diseases. (iii) About 5 years' experience in animal nutrition problems relating

to mineral metabolism with special reference to trace elements. Relaxable at Commission's discretion for otherwise well-qualified candidates.

2. One Assistant Research Officer (Trace Elements Scheme). Animal Nutrition Section, Indian Veterinary Research Institute.—Temporary up to March, 1954. Other things being equal, preference to Scheduled Caste candidate. Pay.—Rs. 275—25—500—E.B.—30—650—E.B.—30—800. Age.—Below 36 years. Relaxable for Government servants. Qualifications.—Essential.—(i) Degree or diploma in Veterinary Science of recognised University or institution. (ii) Post-graduate training at recognised institution covering haematological and histopathological aspects of farm animals. (iii) About 2 years' experience in animal nutrition problems relating to mineral deficiencies. Note.—(ii) & (iii) relaxable at Commission's discretion for otherwise highly qualified candidates.

3. One Physician, Coal Mines Labour Welfare Fund, Dhanbad.—Temporary for 5 years but likely to become permanent. Candidates who applied in response to Commission's advertisement No. 31 need not apply again. Pay.—Rs. 1,000—50—1,800 plus Rs. 250 p.m. non-practising allowance. Higher initial pay up to Rs. 1,150 p.m. to specially well-qualified and experienced candidate. Age.—Below 45 years. Relaxable for government servants. Qualifications.—Essential.—(i) M.D. and/or M.R.C.P. of recognised Indian or Foreign University or college. (ii) Adequate (about 5 to 7 years) practice of general modern medicine in modern hospital where post-graduate training is given to doctors and experience in those hospitals.

4. (a) One Assistant Engineer (Civil) and (b) One Assistant Engineer (Electrical), Central Lighthouse Department.—Temporary but likely to continue for 3 years. Pay.—Rs. 350—350—380—380—30—590—E.B.—30—770—40—850. Age.—Below 35 years. Relaxable for Government Servants. Qualifications.—Essential.—For (a).—(i) Degree in Civil Engineering of recognised University or equivalent. (ii) About 2 years' experience in design and construction of reinforced concrete and structural works. For (b).—(i) Degree in Electrical Engineering of recognised University or equivalent. (ii) About 2 years' experience in generation supply and transmission powers, together with some experience in lighting, small motors and wiring.

5. Five Information Officers (External), Ministry of External Affairs.—Temporary but likely to become permanent. Appointments made on five year renewable contract. Pay.—Rs. 720—70—1,000 plus foreign allowances and free furnished quarters or house rent etc., as admissible. Age.—Between 25 and 45 years. Relaxable for Government servants. Qualifications.—Essential.—(i) Degree of recognised University. (ii) Adequate, say, about 3 years' experience under one or more following.—(a) Journalism and/or public relations. (b) Newspaper reporting, interviewing, sub-editing and writing of feature articles. (c) As gazetted Officer in Government publicity organisation. Qualifications relaxable at Commission's discretion for otherwise well-qualified candidates.

D. C. DAS,
Secretary,
Union Public Service Commission,
New Delhi.

